

THE
Canadian Freeholder :

A

DIALOGUE.

SHEWING,

The Sentiments of the Bulk of the Freeholders of Canada concerning the late Quebec-Act, with some Remarks on the Boston-Charter Act, and an Attempt to shew the great Expediency of immediately Repealing both those Acts of Parliament, as a Ground for a Reconciliation with the United Colonies in America,



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M.DCC.LXXVI.

Canadian History

1800-1850

The early years of the colony were marked by a period of rapid growth and development. The arrival of the first settlers in 1783 brought with it a wealth of experience and knowledge that helped to shape the future of the colony. The early years were also marked by a period of conflict with the British, which resulted in the loss of the colony to the United States in 1783.

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P R E F A C E.

THE following Dialogue is supposed to have passed in the province of Quebeck in North-America, in the month of July, 1775, between a sensible and substantial Canadian freeholder, of the Roman-Catholic religion, and an English Protestant gentleman, who had long resided in that province, since it became subject to the crown of Great-Britain, but had been absent from it for five or six years preceding the date of this dialogue, which he had spent in the neighbouring English provinces of North America. It is intended to convey to the public a true representation of the sentiments of the French, or Canadian, inhabitants of that province

P R E F A C E.

vince concerning the late Quebec-Act, according to the best accounts the writer of this dialogue has received of them; and likewise to suggest some reasons for repealing without delay, together with that obnoxious act, the late act of parliament for altering the charter of the Massachuset's Bay. The three first speeches of the Englishman, with the Frenchman's answers to them, are the same in substance with what the writer is assured did really pass in a conversation of this kind in the province of Quebec between two persons of the foregoing description. The rest of the dialogue is the invention of the writer, but agreeable to the accounts which he has received concerning the sentiments of the Canadians and other Americans.

T H E

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Canadian Freeholder :

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DIALOGUE.

ENGLISHMAN.

WELL, my friend, I suppose that you, and all your countrymen here, are very happy at the great change of the laws and government of this province by the late act of parliament.

FRENCHMAN.

Not at all, Sir, I can assure you. And I wonder you should think we can be pleased with

with it. It is calculated only to gratify the pride, and supply the wants, of some of our beggarly noblesse, who are now in hopes to get places of power and profit in the province, and to renew their old practices of oppressing and domineering over us. For such, you very well know, was their behaviour to us in the time of the French government, and that our emancipation from that species of tyranny by the establishment of the English laws, was exceedingly agreeable to us, and gave universal satisfaction. But now all this comfort is at an end, and the gloomy prospect of the return of our former servitude presents itself to our imagination, and fills us with great uneasiness. For, by the revival of the French laws, we are apprehensive that all those oppressive powers of the noblesse over the common people will be re-established; and by the clause in the act which permits Roman-Catholicks to hold offices of trust and power, we are induced to suspect that there is an intention in government of bestowing these offices on some of our former superiours, from whose domination we have been so happily free for these fifteen years last past.

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ENGLISHMAN.

Well, I cannot blame your reasoning: it is indeed but too well founded. But what say you to the clause which confirms your religion? Surely that must please you.

FRENCHMAN.

We have no more reason to be pleased with that clause than the other. It is true indeed that we are zealously attached to our religion, and should have been very unhappy if we had not been tolerated in the free exercise of it. But we *were* so tolerated to the utmost extent of our wishes before the late act of parliament. It was stipulated in the capitulation in September 1760, that the free exercise of our religion should subsist intire, so that all ranks and conditions of men, both in the towns and countries, might continue to assemble in the churches, and to frequent the sacraments as heretofore, without being molested in any manner, directly or indirectly. And this was readily granted to us by our humane conqueror, General Amherst. But when the Marquis de Vaudreuil, our general, demanded
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further, that we should be obliged, by the English government, to pay to our priests the tythes, and all the taxes which we were used to pay under the government of our former Sovereign, General Amherst (who did not think it necessary to perpetuate our religion by a compulsive provision for the priests who teach it,) very wisely refused to grant this second request, and made answer, *that the obligation of paying the tythes to the priests would depend on the king's pleasure.* In consequence of this answer, we have understood that we were not to be obliged by the English government to pay the priests their tythes, until the king should declare it to be his pleasure that we should pay them; or, in other words, we thought that the legal right of our priests to demand them, and sue for them in a court of justice, was suspended till his Majesty's pleasure should be declared for revival of it; and no such declaration had been made before the late act of parliament. These points of the capitulation have been strictly observed on all hands, ever since they were settled till the present time, that is, for a space of fifteen years. We have enjoyed the free exercise of
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our religion in the highest degree possible. We have had our priests to officiate to us both publickly and privately, in the same open and unrestrained manner as under the French government: and we have assembled in our churches and frequented the sacraments in the same manner as heretofore, as the article of the capitulation above-mentioned demanded for us the liberty of doing; and not one of our churches in the whole province has been taken from us for the use of the protestants. This degree of justice and honour in the English government, with respect to the observation of this important article of the capitulation, has at once astonished and delighted us.—And the other point, concerning the tythes, has been likewise constantly observed; insomuch that our priests have not presumed to sue for their tythes in any of the courts of justice in the province ever since the establishment of the civil government, being conscious that they could not maintain a legal right to them on account of the said answer of General Amherst to the second request above-mentioned. Yet, as we are sincere and zealous in the belief of our religion, we have usually

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paid them to the priests that did the duty of our parishes, though we knew we could not be compelled to it: and few complaints have been made against us for our neglect of them in this particular; especially where we have been satisfied with their conduct, both with respect to the decency and regularity of their lives, and to their diligent discharge of the duties of the pastoral office. In these cases we have always throughout the province made a liberal provision for the priests who administered to us the offices of our religion: and we have found that the liberty we have had of paying them the tythes, or letting it alone, as we thought fit, has contributed very much to make them behave in such a manner as to deserve them. This situation of things pleased us extremely. We enjoyed the exercise of our religion in as free and ample a manner as we had done in the time of the French government: and we had the additional advantage of rewarding our priests in the manner we thought proper, and in proportion to the merit of their behaviour towards us in the discharge of their parochial duties. You cannot surely think that the enjoyment of such a
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power over our priests as this was could be disagreeable to us. Whoever does think so is most egregiously mistaken. But now your parliament (though, we are told, it consists only of protestant members,) has deprived us of this power, and forced us to pay our tythes to our priests (whether we are pleased with them or not,) to the uttermost farthing. And, however ill they may behave amongst us,—though they should be the most vicious fellows in their parishes, wholly given up to drunkenness and lewdness, debauching our wives and daughters, and neglecting the most important duties of their office, and behaving to us with the utmost contempt and insolence;—yet, when once it has pleased the bishop to appoint them to be our parish priests, we must, for the future, pay them their tythes and other dues in the same manner as if their conduct had intitled them to our entire approbation. Now this is a duty imposed on us by the late act, which we shall certainly perform in these cases with great reluctance.—In short, as the former clause, which revives the French laws, seems calculated to bring us again under servitude to our noblesse; so this other clause,

which revives the legal obligation of paying the priests their tythes, seems calculated to bring us under subjection to our priests: and neither of these changes in our late easy and happy condition is considered by us as an advantage. Our noblesse, (those hungry cormorants, who are too proud to cultivate their lands, as we do, or to follow any useful trade for their subsistence, and too poor to live upon their fortunes,) may naturally enough rejoice at the late act, as it opens to them a prospect of getting lucrative places under the government: and our parish priests may like it for a similar reason. But we, the poor people, who are to be forced to pay the priests their tythes, and to furnish the taxes out of which the large salaries of the great number of lucrative offices that, we hear, are soon to be bestowed on some of our noblesse, are to arise, (for we cannot suppose that Great Britain will long continue to bear all these unnecessary burthens on her revenue,) must take the liberty of disliking it, and considering it as a just subject of complaint. And even the very giving these places to our noblesse, (if they are to be places of any trust and power, and not

not mere sinecure places by way of disguise for pensions,) is an alarming event to us poor Canadians, independently of the taxes which, we fear, will be laid on us to provide the salaries of them ; because it will again furnish them with the means of oppressing and insulting us, as they did in the time of the French government ;---a treatment we shall be little able to bear now after the mild and impartial administration of justice and moderate use of power which we have experienced from the English magistrates, by whom we have been governed for these last fifteen years. If these therefore are *the favours* of the British parliament, we hope they will for the future be very sparing of their acts of indulgence to us.---I believe you will agree with me that these sentiments are not ill-founded.

ENGLISHMAN.

I do indeed most sincerely : and I partly guessed that you might entertain these sentiments ; but was desirous of knowing from your own mouth whether you did or not, and therefore begun our conversation by pretending to suppose that the late act must have been agreeable

agreeable to you. But give me leave to ask you further, whether the sentiments you have now expressed are those of the generality of the Canadians, or only of a few persons who have considered the subject with the same attention which you seem to have given to it.

FRENCHMAN.

It would be too little to say they are the sentiments of the generality of the Canadians: they are the sentiments of the whole Canadian people, except only the very few persons who reap an immediate benefit from the act, that is, the parish-priests, who are empowered by it to sue us for their tythes in the courts of justice; about five or six of our lawyers, who flatter themselves that the revival of the French law will increase their business and consequence; and the narrow circle of our poor and proud noblesse, who are gaping after the salaries of the places which are soon to be bestowed on them, and pleasing themselves with the thoughts that they shall then have an opportunity of exercising authority over us in the same manner as they did under the French government. Excepting these persons, (who
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may amount perhaps to two hundred, or at most three hundred, men in the whole province,) I will venture to say that all the rest of the Canadians, who think at all upon the subject, entertain the same sentiments as I do.

ENGLISHMAN.

As this is the general way of thinking amongst the Canadians, pray how comes it to pass that they did not make it known to the government in England, before the late Quebec act passed? For I dare say that act was passed with an intention to please and humour the Canadians, and thereby dispose them to become active instruments in the hands of the crown to assist in the conquest of the other rebellious colonies. Indeed there is no other way of accounting for the parliament's passing an act of so uncommon a nature, and so contrary to the most fundamental maxims of the British government.

FRENCHMAN.

I cannot pretend to judge of the political views of the British ministry in causing that
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act to be passed. But, if they did intend to please the Canadians by it, as you suggest, (for of myself I should never have suspected them of such an intention,) I suppose that they must have thought that the Canadian people were intirely under the influence of their priests and their nobleſſe, and that they followed implicitly wherever the latter led, as ſheep do their bell-weather, and confequently that, by gratifying the nobleſſe and the priests, they ſhould gratify all the reſt of the people. An opinion of this ſort muſt have prevailed among them. But, (as you well know, and as now appears plainly in the general murmurs at this act all over the province,) it is intirely without foundation. The nobleſſe have never had any influence amongſt them at all, but, on the contrary, have been rather looked upon by them as objects of terrour and hatred : and the priests have had but a limited degree of influence over them, and only in matters where religion has been thought to be concerned. This was well known to all the Engliſh inhabitants of the province ; and therefore we preſumed it muſt, by their means, be known alſo to the government

government in England. But I suppose they have listened principally to the suggestions of the Governour, who has been so far biaſſed by the perpetual flattery of the biſhop and his clergy and the nobleſſe of the province (who call him their father and protector,) as to conceive them to be of much greater importance than they are, and who has probably represented them in that light to the king's miniſters of ſtate, and made them believe that the ſentiments and wiſhes of that ſmall circle of intereſted perſons were thoſe of the whole Canadian people.

As to making a formal petition to the king to continue to us the Engliſh laws in the manner we had enjoyed them before the late act, (which you ſeem to think we ought to have done, and which indeed I ſincerely wiſh we had done,) our reaſons for not doing it were as follows.

In the firſt place, you well know that the Canadians are extremely fearful of offending their governours, and conſequently of taking any ſtep which may expoſe them to their fu-

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ture resentment. This is owing partly to the arbitrary manner in which they were used to be commanded in former times, and the discretionary power of imprisonment which was exercised over them by the intendants of the province. This habit of obedience and terroure has continued amongst them (though in a less degree than formerly,) till almost the present time, notwithstanding the great mildness of the English civil government and the total cessation of the exercise of that arbitrary power of imprisonment. For they did not well know the cause of this cessation, and could not be sure that it was not the effect of some temporary policy, which would soon be laid aside, or of the humane or cautious tempers of the persons at the head of the government. They had indeed been told that it was the consequence of the introduction of the English laws and form of government: and they, for that reason, were greatly delighted with those laws and that form of government. But yet they saw this but imperfectly, and therefore had still some doubts and apprehensions in their minds concerning the stability of this new state of ease and liberty, and consequently

consequently some remains of their ancient habits of fearing to offend the officers of government, Ignorance, you know, is often both the parent and nurse of timidity : and our Canadians, for the most part, can neither read nor write : nor have they been accustomed, nor indeed have they dared till of late years, to think upon the subject of government. It ought not therefore to be matter of wonder that they do not yet think either very freely or very accurately concerning it, and much less that they are shy of acting with respect to it in a manner that they suspect will be offensive to their superiours. This I take to be one of the reasons why they did not make such a petition as you mention, to express their desire that the laws of England might be continued in the province.

A second reason for their not making such a petition may also be referred to their ignorance. There are some parts of the laws of England which, if they were to be put in practice here, would be greatly and justly disagreeable to them. Such is the English law of inheritance of land by primogeniture;

which, if it were to be immediately introduced into the province so as to affect the present generation of young men, would certainly cause great uneasiness and misery in families; though, if it were to take place only with respect to the children of marriages hereafter to be contracted, with a power in the parents to avoid it, if they thought proper, and to retain their former law of inheritance by partition, either by inserting a clause for that purpose in their marriage-agreements, or in their last wills, or in any deed executed in their life-time, I am inclined to think it would give the Canadians no offence, but rather be well received by them, because they have often observed and lamented the many inconveniencies that have resulted from the subdivision of small lots of land in consequence of their present law of inheritance by partition. Yet the sudden introduction of this law of England would be very disagreeable to them, even though they should be impowered to avoid its operation by devising their land in the manner they should think proper by their last wills and testaments, because, as they can neither write nor read, and are not
much

much accustomed to make wills, this precaution would probably be often neglected, and the younger children of families, in consequence of such neglect, would be disappointed, by the operation of the new law, of the shares of their father's estate, which they had been bred up in the expectation of under the old one. This therefore is one of those parts of the English law which would really be disagreeable to the Canadians. Another part of it that would also be disgusting to them, is the law of tythes. For we are told that, by the law of England, the owners of land are obliged to pay every tenth sheaf of their corn to the parson of the parish; whereas the tythes paid in this province in the time of the French government was only the twenty-sixth bushel of corn ready threshed out, and made fit to put up in the barn. Now it would be thought highly oppressive by the inhabitants of this province, notwithstanding their sincere attachment to the Roman-Catholick religion, to be forced to pay tythes to their priests at the enormous rate of every tenth sheaf; since, as I said above, they were extremely pleased with the liberty allowed

lowed them, ever since the capitulation in 1760 till the present act, of not paying even their accustomed tythe, though so much less than the English tythe, unless they chose it. These therefore are two parts of the English law which, if they were to be practically introduced in the province, would give great offence to the Canadians. And perhaps there may be some other parts of that law which I have never heard spoken of, or do not at present recollect, which might be equally disgusting to them.

I am aware that you will observe upon this occasion, that these are two parts of the law of England that the English inhabitants of the province have no desire, or thought, of introducing into it, but that they are willing to have them excepted by name, in the plainest manner possible, from the general body of the laws of England which they wish and hope to see established here, if such an exception of them is desired by the Canadians:—that, as to the first of them, the law of inheritance by primogeniture, they think it would be foolish and unjust to introduce it suddenly,

so as to affect the present generation of Cana-
 dians, and are not solicitous to have it intro-
 duced even with respect to future generations
 in the manner I have above mentioned, unless
 it be agreeable to the Canadians that it should
 be so introduced ;—and that they therefore are
 willing to have the customs of Canada upon
 that head, as well as concerning the dower of
 widows, and the modes of conveying landed
 property, and, still more, those concerning
 the tenure of lands, or the mutual rights and
 duties of the seigniors and their freehold
 tenants to each other, expressly revived and
 re-established in ~~an~~ ample and satisfactory a
 manner as the Canadians shall desire ; pro-
 vided only that they shall be permitted to
 dispose of their own landed property in the
 province by their last wills in the manner
 they shall think proper :——and that, as to
 the second point, the payment of tythes at
 the rate of the tenth sheaf of corn, they
 should consider it as one of the greatest and
 most absurd oppressions that could be intro-
 duced into the province, their opinion being
 that the affair of tythes ought to be left in-
 tirely voluntary both to the Roman-Catholicks
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and the protestants, without so much as reviving the legal obligation of paying the lesser tythe above-mentioned, which was only the twenty-sixth bushel of corn threshed out and made fit to be housed :----and therefore you will conclude that the Canadians need not have been apprehensive that these parts of the English law would have been introduced into the province in consequence of the petitions of the English inhabitants of it to have that law established.

Now all this I will allow to be true, as I have heard it often and seen from the most sensible English merchants in the province with whom I have had an opportunity of conversing upon the subject. But what avails its being true, or my knowing it to be so, while the bulk of the Canadians are ignorant of it, and liable to be imposed on in this respect by those who are endeavouring to prejudice them against the English law, and in favour of the revival of the French? For these are the very parts of the English law which those persons have held out to them as bugbears, since the passing of the late act of parliament,

liament, to prevent their joining with their English fellow-subjects in soliciting for the repeal of it; as you may see by the perusal of the letter to the Canadians which was signed, "*Le Canadien patriote*," and industriously circulated through the province in December, 1774, in which both the payment of the tythes at the rate of the tenth sheaf instead of the twenty-sixth bushel of corn, and the inheritance of land by primogeniture, to the exclusion of all the younger children now living in the province, and without mentioning even any power in the parents to prevent its operation by their last wills, (though that is also a part of the law of England,) are held up as the necessary and immediate consequences of the introduction of the laws of England. His words are these. "*Aimeriez-vous que vos enfans héritassent à l'Angloise; tout à l'aîné, rien aux cadets?----Voudriez-vous payer la dixme à dixième gerbe, comme en Angleterre?*" Such are the disingenuous artifices which have been used to alarm the poor Canadians with false apprehensions concerning the effects of the introduction of the English law; and by these means they have been brought into a

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state of doubt and irresolution upon the subject, from which they were utterly unable to relieve themselves. For while, from their feelings of the ease, security, and liberty which they have enjoyed for these ten years past, they were inclined to think favourably of the English law as the cause of those great advantages, they have been made to apprehend some bad consequences from certain parts of it which they have not experienced and are not well acquainted with, and which they are told will be inevitably forced upon them, if the English laws should be established in the province, though in truth nobody wishes to introduce them. In this state of delusion they hardly dared to join with the English in a petition to the king to establish the laws of England in the province, though they often declared that they had been extremely happy under them for these last ten years.----I am sensible that here it may be asked why the English did not undeceive them upon this subject, and make them understand that nobody wished to introduce either the English law of paying tythes at the rate of the tenth sheaf, or the English law of inheritance by primogeniture,

primogeniture, or the English law of dower, or any other part of the English law relating to landed property, or any other parts of the English law that the Canadians should have any particular objection to, and that therefore they had no occasion to be under any uneasiness upon that account. To this I answer, that, from their being generally ignorant of letters to such a degree as not to be able either to write or read, it was impossible to undeceive them compleatly upon this, or any other subject, upon which their priests, (who were settled amongst them in the several parishes of the province,) should endeavour to mislead them, as they were known to have done upon this subject, it being an undoubted fact that many copies of the letter above-mentioned signed "*Le Canadien Patriote*," were writ out by the young students at the seminary, or college of secular priests, at Quebec, which, you know, is the principal place of education for our young people who are intended for the church. How could the English merchants communicate to the whole body of the Canadians their answers to these private and repeated suggestions of the priests

to the prejudice of the English law? If they had sent circular letters through the province, either printed or written, the Canadians in many places could not have read them: and if they could, you know the tediousness and difficulty of making a sufficient number of copies of any thing in manuscript for the general information of a whole people; and you know also that there is but one printing-press in the province, and that that is under the direction of the government. To undeceive the Canadians compleatly upon this subject, and convey to them full informations concerning it, was therefore a thing impossible; though much had been done towards it by the English inhabitants of the province in the way of conversation,---perhaps as much as could be done in that way,---and with considerable success. This delusion of the poor Canadians concerning certain disagreeable consequences which they were falsely told would attend the establishment of the English law, I consider as a second reason of their not joining with the English inhabitants of the province in their petitions to the king for its continuance.

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But a third and much stronger reason for their declining to join in such a petition with their English fellow-subjects, was a false alarm that was spread amongst them by their priests concerning the safety of their religion. They were told that even that would be in danger, if they joined with the English inhabitants in their petition to the crown,----that in that case a protestant assembly would perhaps be established, which would instantly oppress them in that respect by introducing and enforcing the penal laws of England against the priests that should perform mass and the laymen that should go to church to hear it; all which they assured them had hitherto been only suspended by the discretion and humanity of the Governour, but would soon be carried into execution when the good Governour's power should be controuled by a turbulent assembly of protestants invested with the sole power of making laws in the province. This was the alarm that had the greatest weight with them, and prevented them from joining with the English inhabitants in their petition to the crown for a settlement of the province upon the foundation of the English law. And

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in the winter 1774, after the late act of parliament had been passed and received in the province, when the English inhabitants were preparing to send over petitions to England for the repeal or amendment of it, and the continuance of the English laws, great numbers of the Canadians were disposed to join with them in making those petitions, and to declare that the petition which had been presented to the king in the name of the whole Canadian people in the spring of the same year 1774, and which had unfortunately been made the ground of the late act of parliament, had been made without their consent, and even without their privity and knowledge. And they even went so far upon that occasion as to desire some of the English inhabitants to prepare a paper for them to sign, expressing these sentiments: but, when the English had prepared such a paper, they were afraid to sign it on account of the alarm above-mentioned relating to their religion, and excused themselves by alledging that they were withheld by their superiours, and commanded not to join the English in any public representations; for that, if they did, they would infallibly be
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deprived of their religion, but, if they remained quiet, they might depend upon it that the English laws would not be changed. Upon this false alarm concerning their religion in case they joined with the English in their petitions, and the equally false assurance that the English laws then observed in the province would not be changed if they remained quiet, they resolved to take the latter course, and refused to sign the paper which they had some time before desired the English to draw up for them.

I hope I have now accounted for the refusal of our poor Canadians to join with the English inhabitants of the province in petitioning for a continuance of the English laws in a manner that is consistent with what I before said of their being perfectly well satisfied with them, so far as they had had any experience of them, and of their great and general uneasiness and apprehensions of a renewal of their ancient subjection to their noblesse by the revival of the French law in all civil matters by the late act of parliament.

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ENGLISHMAN.

You have indeed accounted for the conduct of your countrymen in this particular in a manner that gives me perfect satisfaction. And by the circumstantial description you have given of the motives of their conduct, and the artifices that have been used to influence them, you have enabled me, as it were, to enter into the whole train and course of their thoughts and reasonings upon the subject almost as well as if I had resided all this while in the province, and conversed with them myself upon it. Indeed I pity them very heartily, as well as the English inhabitants of the province. who certainly had reason given them by the king's proclamation in 1763 to expect better things than to see the French laws revived in all civil matters, and to be governed by a legislative council of so very dependent a constitution as I understand this act of parliament to have established, and this too without any limitation of time, so as to remove from them all prospect of ever being governed by an assembly of the people as they had been promised in that royal proclamation.

FRENCH-

FRENCHMAN.

The English complain bitterly of this indefinite establishment of a legislative council in the province: and the more, as they had declared themselves willing to accept of an open assembly consisting of protestants and Roman-Catholicks indifferently, in case his Majesty should think fit to establish an assembly of that form; whereby the only objection which seemed to lie against the practicability of establishing an assembly in the province, (which was the supposed danger of admitting papists into it,) seemed in a great measure to be removed. This declaration of theirs, they imagined, took away all pretence for refusing them an assembly in pursuance of the royal promise contained in that famous proclamation. For they say they can hardly suppose that the English parliament can any longer think the profession of the Roman-Catholick religion a just objection to a man's being chosen into an assembly, since they do not make it an objection to his having a seat in the legislative council, nor even to his having that still higher and more dangerous trust, a mili-

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tary commission. This is what I have hear'd many Englishmen declare upon this subject: and it appears to me very reasonable. But we Frenchmen, not having been used to assemblies, are more shocked at the other parts of the act, which revive the French laws, (and with them, as we apprehend, our ancient subjection to the noblesse,) and the legal obligation to pay the priests their tythes.

ENGLISHMAN.

I perceive by your account that the whole body of the people, both Canadians and English, are sadly out of humour at this act of parliament. I hope the rebels in the adjoining colonies will not take advantage of this unhappy disposition to invade the country. For, if they should, I doubt much whether they would meet with any resistance, if they offered fair terms to the inhabitants that should submit to them.

FRENCHMAN.

Very little, I believe; at least from the Canadians. And the English inhabitants alone could not do a great deal against a considerable

siderable force, because of the smallness of their number. And almost all the troops have been lately drawn out of the province to reinforce General Gage's army at Boston. So that I am greatly afraid, if the provincials should send an army into the province, that it must be over-run by them. But I hope the attempt will not be made,

ENGLISHMAN.

I hope so too: or rather I wish it may not. For, as the English Americans all consider the late Quebeck act as a manifest proof of an intention in the government of England to arm the Canadians and send a body of them to attack the back settlements of New-England and the other rebellious colonies, I am persuaded the provincials will endeavour to be before-hand with government in this matter, and will make an attempt to invade this province before the Canadians are actually raised and embodied; more especially as the province has been drained of almost all its troops, and the inhabitants of it, both French and English, are known to be greatly discontented at the late act of parliament, and con-

frequently little inclined to take any active part in the defence of the province against them. Indeed we may conclude from their late attack upon the king's forts at Ticonderoga and Crown Point, (which they have taken by surprize in a most unaccountable manner,) that the provincials have such a design, those forts being, as it were, the gates of Canada. And I am told that within these few days, ever since the beginning of July, the troops they have left in garrison at those places openly talk of speedily making the attempt.

FRENCHMAN.

If they should invade us, I am almost sure they will meet with no resistance from the Canadians. Nay, I much fear that they would be joined by some of them. So strangely have I hear'd some of them talk upon the subject; and so great is their indignation at the late act of parliament.

ENGLISHMAN.

Of the ill effects of the Boston-charter act and the Quebec act on the minds of the Americans.

Indeed I very much fear that that act and the other angry acts against America, passed in the spring of the year 1774, and particularly

larly that which alters the charter of the colony of the Massachusetts bay, and which is commonly called the Boston-charter act, will be the occasion of our losing the dominion of all America. For that Boston-charter act has not only offended almost every inhabitant of that populous and powerful colony, but it is considered throughout America as a blow to the liberties of all the other provinces, and a leading step towards similar alterations in all the other charters. And the Quebeck-act has alarmed them still more than the Boston-charter act, by filling them with apprehensions of two very dreadful evils; the first, that the Canadians will be armed and employed against them to keep them in a slavish subjection to whatever laws and taxes the British ministry and parliament (which now are observed to be very closely connected with each other,) shall think fit to impose upon them; and that the Canadians are for that purpose to be encouraged to continue in the popish religion, and that, with that view, a legal provision is made by the act for the maintenance of the priests who are to teach it them, to the end that they may be more readily disposed, in consequence

consequence of their religious opinions and their supposed aversion to protestants, to engage in that odious service; the second, that, as the British parliament has taken upon itself to rescind the king's proclamation of October, 1763, and thereby to revoke his Majesty's promise of granting to the inhabitants of Canada a free government by an assembly of the people, and to establish in the said province, instead of such assembly, a legislative council consisting of a small and a variable number of persons nominated by the crown, and removable at its pleasure;---and this not for a few years only, while some inconveniences might be supposed likely to attend the establishment of an assembly, but indefinitely, or without any limitation of time;----I say, from this proceeding of the British parliament the Americans conclude that a legislative council, of the same nature as this which has been established in Canada, is now become the favourite mode of government with the British ministry and parliament for the dependent dominions of the crown, and consequently that they would, if they could, and will, as soon as they shall be able, abolish all the assemblies

assemblies in the American colonies, and establish legislative councils in their stead. I know for certain that the famous Dr. Benjamin Franklyn, in particular, has declared it to be his opinion that the ministry entertain such a design. You may easily imagine how deeply and generally an apprehension of this kind must alarm and provoke the inhabitants of the English colonies in North America.

FRENCHMAN.

It must indeed. And I therefore do not at all wonder that the English Americans should be as much displeased at this Quebeck-act as we Canadians and the English settled among us, who are the more immediate objects of it. It is equally mischievous to us all. But, pray, explain to me the nature of that other act, which, I think, you called the Boston-charter act, and which, you say, is almost as alarming to the English colonies in America as the Quebeck-act. And I beg you would do this very fully, as I am but imperfectly acquainted with the constitutions of the English colonies, and the grounds of the discontents that have driven them into open rebellion against our sovereign.

sovereign. I have the more reason to expect that you will not be sparing of your pains on this occasion, as you must allow that I have been very full and explicit in the answers I have given to the questions you have made to me concerning the state and sentiments of the inhabitants of this province.

ENGLISHMAN.

You impose a very hard and tedious task upon me, and to which I feel myself to be very unequal; more especially, if you extend your inquiries to all the English colonies in America. However, I will endeavour to satisfy you as well as I can, with respect to the colony of the Massachusetts bay and the act for altering its charter. For I readily acknowledge you have a right to all the information I can give you.

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You must know then that when King James II. had quitted the throne of England, which he had filled for four years in a manner most disgraceful to himself and oppressive to his people, the inhabitants of the province of the Massachusetts bay were without a charter, and

and were governed (as this province, and the province of New York, and several other provinces in America, now are,) by the king's commission to his governour under the great seal of England. They had had a charter some little time before, which was of a very popular nature, the election of the governour and council, and of all the other officers of government having been granted by it to the people, (as I have heard,) though in most other colonies they have only the election of the assembly; so that the crown had had little or no controul over them. But this charter had been taken from them a few years before by a proceeding at law, called by the lawyers a *scire facias*, which had been instituted against them at the suit of the crown in the latter end of the reign of king Charles II. that is, about five years before the abdication of the said king James and the election of the prince of Orange by the two houses of parliament to the office of king in his room; which most happy and memorable event is usually called *the Revolution*. What were the merits of this law-suit against that charter of the people of Boston, I do not exactly know.

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It was alledged against them in it, that they had exercised some powers of government which their charter had not granted to them: and this, and some other irregularities in their conduct as a corporate body, were made the grounds of passing a judgement against them in the court of King's-bench in England, declaring that they had thereby forfeited their right to the said charter, and that it should be taken from them and become from that time utterly void and of no effect. The motives of this prosecution are agreed on all hands to have been bad, it being only one of many measures, which were entered into at that time by king Charles II. and his wicked ministers, to increase the power of the crown by depressing the liberties of the people. But I believe the proceedings in it might be regular, and the judgement given against the charter might be legal; and consequently that, when king William (that is, the good prince of Orange who had delivered the nation from the tyranny of king James, and had been thereupon elected king in his place by the two houses of parliament through gratitude for his great services and to defend them

against

against the return of king James,) ascended the throne; the people of the Massachusetts bay had no legal right to resume the exercise of it. They nevertheless solicited very diligently, and with great eagerness, by their agents at king William's court, to have it given back to them. But they did not meet with success. The ministers of state, (though friends to the liberties of the people upon the moderate and rational principles of the English government, which gives to the people a great share in the legislative authority of the state, but reserves to the crown the whole executive power of it,) did not think it wise to renew a charter, when it was legally dissolved, in which the crown had little or no share even of the executive power of the government reserved to it, and which they therefore thought was fitter to be the charter of a little trading borough than of a great colony that might one day consist of half a million of inhabitants. They therefore advised the king to give them another charter upon a better plan than the former, and fitter to promote the good government of that colony and to preserve its dependance on the

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crown. This advice was followed; another charter was made out upon a new model, in the framing of which the famous Sir John Somers, (who was afterwards Lord Somers and lord chancellor of England, and who was reckoned one of the wisest men and ablest ministers of state that was ever known in England) is thought to have been concerned; and it passed the great seal of England, and was thankfully accepted by the majority of the people of the Massachusetts bay, notwithstanding the attachment of a small party amongst them to the popular privileges of their old charter. This happened in the year 1692; and since that time till the late Boston-charter act, that charter has been the rule of government in that colony. This charter has usually been considered as the best-contrived charter in all America, having a due proportion of power reserved to the crown at the same time as a sufficient degree of weight in the government is bestowed upon the people for the preservation of their liberties and properties. And Governor Hutchinson, in his excellent history of the Massachusetts bay, says that it is in

many

many respects to be preferred to the old charter, and that the people of the Massachusetts bay have no desire to return to the old charter, and do not envy the neighbouring governments of Connecticut and Rhode Island, which have retained, and been governed under, their ancient and more popular charters to this day, but that many of the most sensible men in those colonies would be glad to be under the same constitution of government that the province of the Massachusetts bay has happily enjoyed under their second charter. By this charter the crown has the right of appointing the governour, lieutenant-governour, and secretary of the province; and the power of making laws for the province and of imposing taxes on its inhabitants, is vested in the governour, a council consisting of twenty-eight members, and an assembly of the people. The assembly is chosen in a very fair and proper manner, the freeholders in every township in the province, that is, in every space of ground of six miles square, that is cleared and settled, (which is about the size of one of the seigniories in this province,) having a right to chuse

Constitution of the assembly of the Massachusetts bay.

two persons to represent it in the general assembly. By this means the assembly does not consist of a trifling number of members, (as is the case in many of the other colonies, as, for instance, in the province of New York, where the assembly consists of only twenty-seven members,) but is a large and respectable body of men, that come from every part of the province, and consequently are acquainted with the condition, the wants, and the interests of every part of it, and who are too numerous to be bribed or inveigled by the governour, or any corrupt party in the government, to betray or neglect the true interests of the province from a regard to their own private advantage. I have been told that there have been usually more than a hundred members of the assembly met together of late years when the governour has called a meeting of *the general court* of the province; (for that is the proper name of the whole legislature of the province, consisting of the governour, council, and assembly, by which it is called in the charter;) and they might, if the people chose it, be increased to two hundred, because many of the townships,

which

which have all a right to send two members to the assembly, have hitherto sent only one. And even this number will be increased as the cultivation and population of the province shall increase, because every new township that shall hereafter be laid out and settled, will have a right of sending two new members to the assembly. I have often thought that this manner of constituting an assembly would be very fit to be adopted in Canada, whenever his Majesty shall be graciously pleased to fulfil the promise made us in his proclamation of granting us a house of assembly, and that the best assembly that could be established for this province would be one to which every seigniory in the province the extent of which is two leagues, or six miles, square, (and which consequently answers to a township in the province of the Massachusetts bay,) should send two members, and every larger seigniory more members in proportion to its size. And, as there are in this province two distinct sets of land-holders, who are both equally freeholders, or who equally hold their lands to themselves and their heirs for ever by a known and certain tenure, or upon certain known conditions,

A convenient form of an assembly for the province of Québec;

conditions, and without any dependance on the will of any other person, so long as they shall perform those conditions; and who consequently are equally intitled to a share in the government of the province; namely, first, the seigniors, who hold their lands immediately of the crown by the tenure of fealty and homage, without any quit-rent whatsoever, together with a few other persons who hold lands also immediately of the crown, but by rent-service, and, secondly, those who hold lands of the seigniors either by fealty and homage (in which case the lands they hold are called *arriere-fiefs*,) or by rent-service, or, as you Frenchmen express it, *par cens et rentes*; it seems reasonable to me that one of the two members sent from every seigniory should be chosen by the seignior, or, (if there are several co-seigniors or joint owners of the seigniory,) by the several co-seigniors who own the seigneurial property of it, and the other by the peasants of the seigniory, and the owners of *arriere-fiefs* in it, who hold their lands of the seignior, or co-seigniors, of it. And I further think it would be advantageous to the province, that the
members

members chosen by the seigniors and those chosen by the other freeholders should sit in different houses, each of which should have a negative upon the proceedings of the other, as is the case with our two houses of parliament in England. What think you of this plan of an assembly for this province? Could it easily be established in the province, and would it answer the good purposes of an assembly? or is it (as I am told some people have called it,) a mere visionary and impracticable whim?

FRENCHMAN.

I see no difficulty at all in forming an assembly in that manner. On the contrary it seems naturally to result from the manner in which our lands are held in this province. There are two classes of land-holders amongst us, an upper and a lower. The seigniors, and other persons who hold their lands immediately of the crown, form the upper class; and those who hold their lands of the seigniors, form the lower class. Their interests, though not contrary, are distinct from each other; which makes it reasonable that they should

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have distinct representatives, and that the representatives of the one class should have a negative upon the laws proposed by those of the other, to the end that nothing may be done by the representatives of either class that is prejudicial to the rights of the other: and for this purpose it is expedient that they should sit in two separate houses. And this division of the assembly into two houses would be attended with this further advantage, that all the regulations that would be proposed in it would be discussed with more solemnity and deliberation, and would be more thoroughly sifted and examined, before they would be passed there and presented to the governor for his assent, and consequently would be more likely to be purged of every thing that might be pernicious to any interest in the province, than if all the members of the assembly sat and voted promiscuously in the same house. I hope however that care will be taken by his Majesty and the British parliament, whenever an assembly shall be established in this province, (whether it be in one or two houses,) that our representatives shall be restrained from assuming to themselves

Precautions to be used to hinder the members of the assembly from assuming to themselves any privileges above their fellow-subjects by their own votes.

selves any privileges, or exemptions from the laws to which the other inhabitants of the province shall be subject; but that every thing of this kind, which may be necessary for their ease or dignity, or for the convenient discharge of their duty as assembly-men, will be settled by the act of parliament that shall establish the assembly. And I still more hope that they will be restrained from exercising, under any pretence how specious soever, a coercive power over the rest of their fellow-subjects, or a power of punishing them by imprisonment, or otherwise, in a summary way, for any crimes or offences whatsoever, instead of leaving them to be tried in the ordinary courts of criminal jurisdiction in the province. For this would be making us slaves to our own representatives, which would appear to us, who have hitherto been governed by the royal authority only, a meaner species of servitude than that we have hitherto been subject to. I mention this precaution, because I have been told that some of the American assemblies have exercised such powers of arbitrary imprisonment every now and then over their fellow-subjects.

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ENGLISHMAN.

It is true that such a power has sometimes been exercised by some of the American assemblies. But I believe it has not been done very often; and when it has been done, it has always been disapproved by all the lovers of liberty in the province where it has happened, and has tended to lessen the authority and importance of the assembly that has acted in this manner rather than to increase them. And I have been told that it is one of the king's usual instructions to his governors of his American provinces to prevent their respective assemblies from assuming any such powers; which in truth are branches of the executive power of the state, and consequently belong only to his Majesty's royal prerogative. And therefore there is reason to hope that, when an act of parliament shall be passed for establishing an assembly in this province, his Majesty's ministers of state in the two houses of parliament will take care that a clause shall be inserted in it for restraining the members of it in the particulars you have mentioned.

FRENCH.

FRENCHMAN.

There is another particular which I will mention upon this occasion, because I think it necessary to the perfect enjoyment of the benefits that will arise to us from a house of assembly: and that is the abolition of the jurisdictions of the seigniors of the province over the tenants of their respective seigniories. You know that in most of the grants of fiefs, or seigniories, made by the kings of France in this province there is a clause which gives to the grantee, or seignior, *Le droit de haute, moyenne, et basse justice*, or a very extensive power of judicature over the tenants of their respective seigniories. It is true indeed that this kind of judicature has never been exercised in the province since the conquest of it by the crown of Great-Britain in 1760. And it is also true that very few of the seigniors are rich enough to bear the expence that would attend the proper and compleat exercise of it; which would require the maintenance of a seigneurial judge, a seigneurial, or fiscal, attorney, and the keeping of a prison in proper repair for the confinement of criminals.

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nals. And I know also that in the time of the French government the exercise of this power was very much checked and controuled by the officers of the crown, more especially with respect to the prosecution of capital crimes, and that no criminal could be put to death by the sentence of one of those seigneurial courts, nor even by that of the king's judge of the district in which the seigniory was situated, or the offence committed, until it had been confirmed by the superiour council of the province at a meeting of at least seven of its members. All these things I know very well, and am sensible how much they diminish the danger of our being oppressed by the seigniors of the province by means of these seigneurial jurisdictions. Yet there is still danger enough left of such oppression to alarm us and make us uneasy: for we are of opinion that even the *basse justice*, which is only a power of deciding small civil disputes between the tenants of a seigniory, might be used to the oppression of the people, though the *haute* and the *moyenne justice*, which relate to the punishment of crimes, should be suppressed: and we have no doubt that it would

would be often used to such bad purposes. We don't therefore like that the seigniors should retain even a dormant claim to any part of this power of judicature, which they may, one day or other, think fit to revive and exercise, to the terror and oppression of their fellow-subjects: but, on the contrary, we are anxiously desirous that the whole of it may be formally suppressed.

ENGLISHMAN.

I agree with you that these powers of judicature, which are granted to the seigniors and their heirs and assigns for ever in the French king's grants of the seigniories of this province, are not very favourable to liberty, nor likely to prove beneficial to the province. But I have some doubt whether they can be totally abolished, otherwise than with the consent of the several seigniors who claim them, without a breach of the articles of capitulation in 1760, which I have always thought ought to be sacredly observed. The 37th article of that important instrument is in these words,

“ The

“ The lords of manors, the military and
 “ civil officers, the Canadians as well in the
 “ town as in the country, the French settled
 “ or trading in the whole extent of the co-
 “ lony of Canada, and all other persons
 “ whatsoever, shall preserve the intire peace-
 “ able property and possession of their goods,
 “ noble and ignoble, moveable and immove-
 “ able, merchandizes, furs, and other effects,
 “ even their ships: they shall not be touched,
 “ nor the least damage done to them, on any
 “ pretence whatsoever. They shall have
 “ liberty to keep, let, and sell them, as well
 “ to the French as to the English, to take
 “ away the produce of them in bills of
 “ exchange, furs, specie, or other returns,
 “ whenever they shall judge proper to go
 “ to France, paying the freight, as in the
 “ 26th article.”

This article was granted by General Am-
 herst, and consequently the lords of manors,
 or seigniors, of the province have, by virtue
 of it, a right to preserve the peaceable pro-
 perty and possession of their noble goods,
 that is, of their seigniories, which are holden

of the crown by the tenure of fealty and homage, which is reckoned a noble tenure. The question is only how far this promise "*that they shall preserve the peaceable possession of their seigniories*" extends, and whether it involves in it all the powers of judicature belonging to those seigniories, (of which it is probable General Amherst had not, at the time of granting this capitulation, the smallest idea,) or only those rights of the seigniories which were of a pecuniary nature, or which were productive of pecuniary emoluments to the seigniors, that being evidently the principal object, if not the only one, that was then under the consideration of both the parties to this capitulation. In which of these senses do you think we ought to understand this article?

FRENCHMAN.

Certainly in the latter sense, which confines the grant of the property and possession of the seigniories to such things as are attended with pecuniary emoluments to the seigniors. General Amherst certainly never meant by those words to confirm to the seigniors of

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Canada any part of the powers of government in it, of which these powers of judicature make an important part. Nor is it reasonable, upon any principles of candour or equity that I am acquainted with, to interpret the words in so large a manner as to include these powers: because, as I apprehend, the most reasonable rule of construction that can be made use of to find the sense of any instrument that does not expressly mention every particular thing which it may be supposed to comprehend, is, even upon the most liberal principles, no more than this, namely, "*The such things, though not expressed in the instrument shall be presumed to have been meant to be comprehended in it, and shall therefore be considered as if they had been expressly mentioned in it, are of the same nature with the things that are expressly contained in it.*" Now, according to this rule, the powers of judicature, granted to the seigniors of this province by the French kings in their deeds of grant of the seigniorie ought not to be considered as a part of the goods, noble and ignoble, of which General Amherst promised to preserve to them the property and possession in the aforesaid 37

article of the capitulation. For, if these words were to be taken in their strict and literal sense, they would extend only to corporeal property, such as the freehold lands of the tenants of the seigniors, and the demesne lands of the seigniors themselves, (that is, those lands of the seigniors which they have not granted away to their undertenants in perpetuity, but have kept in their own hands, to be cultivated either by themselves and their servants and hired labourers, or by tenants at will, or for years, at certain rents agreed upon between them, and varied from time to time at the pleasure of the parties,) and cattle, corn, hay, house-hold furniture, stock in trade, silver and gold either in coin or bullion, and bonds, bills of exchange, and promissory notes, charters or title-deeds, and deeds of covenant, or other writings containing evidences of rights to money or other things that are worth money; because these things, and only these things, that is, things of this corporeal nature, are properly *goods*, being things that a man may touch, occupy, and possess. But incorporeal rights to goods, or to money, such as that right

of the feigniors of this province which is called *Le droit de laods et ventes*, (which, as you well know, is a right to a fine from every purchaser of a piece of freehold land in the feigniory, for his admission to the land he has purchased, of one twelfth part of the price he has paid for it,) and such as the right of a creditor to be paid the money due to him whether it be for money lent, or for goods sold and delivered, or for work done for the debtor, where the creditor has no bonds, or notes of hand, or other written acknowledgements of the debt to produce in proof of it, but can only prove it by the oath of credible witnesses, are not properly *goods*, because they are not things in possession, which a man may occupy and enjoy; but are called by the distinct names of *rights and credits*. Nevertheless I acknowledge that, by virtue of the equitable rule of construction above-mentioned, all these things ought to be considered as being comprehended in the aforesaid article of the capitulation under the single word *goods*, and that that word ought to be considered in that place as equivalent to *goods, and rights and credits relating to money or goods*; because rights

and credits relating to money or goods are things of the same nature with money and goods, and consequently may well be presumed to have been comprehended under the word *goods* by the parties to the capitulation. But it does not therefore follow that we ought to extend this word *goods* in this article still further, and include under it the powers of judicature vested in the seigniors of Canada by the grants of their seigniories: but we ought rather to suppose that they were not meant to be comprehended under it; because they are rights of a quite different nature from money, or land, or property of any kind, which were evidently the objects of this article of the capitulation. And therefore I think that our seigniors have no pretence to claim these powers of judicature by virtue of this article of the capitulation. And I am pretty sure there is no other article in it that can afford them the least ground for such a claim. On the contrary, there is one article in it which in my opinion makes against it, and rather favours the foregoing interpretation of the 37th article, by which the word *goods* is restrained to mean only *matters of property*,
whether

whether in actual possession or in right. The article I mean is the 42d, in which our general, the Marquis de Vaudreuil, demanded "that the French and Canadians should continue to be governed according to the custom of Paris and the laws and usages established for the country;" to which General Amherst gave this answer, "*Answered by the preceding article and particularly by the last;*" the answer to which last article is in these words, "The French shall become subjects of the king." Surely by these words we must understand that the settlement of the laws and civil government of the country was esteemed by General Amherst to be a matter of such high importance, that he thought it necessary to reserve it for his Majesty's future and most mature deliberation without promising any thing in the capitulation which might restrain his Majesty from exercising his royal wisdom upon it to such extent as he should think proper. And, this is the true meaning of this answer to the 42d article of the capitulation, it will serve as I conceive, to interpret the 37th article of it above-mentioned, and shew that, by the promise to preserve to the seigniors of the province

province *all their goods, both noble and ignoble, moveable and immoveable*, General Amherst could not mean, and ought not to be understood to have meant, to include the powers of judicature above-mentioned, but only their property of every kind, and such rights as relate to it or are productive of pecuniary emoluments. Nothing can be fairer than thus to interpret one clause of an instrument, in which the meaning of the writer of it happens to be a little doubtful, by another clause of the same instrument, in which his meaning is perfectly clear.

ENGLISHMAN.

You argue stoutly against these powers of judicature in your feigniors: by which I plainly perceive that you are exceedingly averse to their ever resuming the exercise of them. But, notwithstanding the reasons you have alledged to the contrary, I have some doubt whether those powers ought not to be considered as included under the grant made to the feigniors of *all their goods, noble and ignoble, moveable and immoveable*, in the aforesaid 37th article of the capitulation;
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You argue stoutly against these powers of judicature in your seigniors: by which I plainly perceive that you are exceedingly averse to their ever resuming the exercise of them. But, notwithstanding the reasons you have alledged to the contrary, I have some doubt whether those powers ought not to be considered as included under the grant made to the seigniors of *all their goods, noble and ignoble, moveable and immoveable*, in the aforesaid 37th article of the capitulation;
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and *that* upon a ground that is consistent with your manner of interpreting that article, (which I believe to be a just one,) by which you extend the word *goods* only to such incorporeal rights as relate to property, or are productive of pecuniary emoluments. For I have been told that those powers of judicature are attended with some pecuniary emoluments. Thus, for example, I have heard some of the more learned Canadians say that the seigniors who have these powers of judicature, *haute, moyenne, et basse, justice*, have a right, in consequence of these powers, if they exercise them, to the escheats of the lands of their freehold tenants when they die without relations, and without having left their lands away to any body by their last wills, and perhaps in some other cases; whereas, if they have no right, by the grants of their seigniories, to exercise these powers of judicature, or if, having such a right, they neglect to exercise it, they are not intitled to the lands of their tenants by escheat, as aforesaid, but those lands will in the same cases escheat to the king, to whose tribunals the tenants of such seigniories will have been obliged to resort

resort for justice; the escheat of the lands being considered as a kind of compensation, or price, to the seignior, or the king, for the administration of justice in the seigniory. Now, if this is so, (as I really believe it is,) you see that these rights of judicature are, or may be, productive of pecuniary emoluments to the seignior by these escheats of some of his tenants lands, and, consequently, according to your own manner of interpreting the aforesaid 37th article of the capitulation, ought to be supposed to be comprehended under it. For, if they are not comprehended under it, but are supposed to be refused and abolished, the seigniors will, together with them, lose the concomitant casual emoluments that might otherwise arise to them from these escheats of their tenants lands.

FRENCHMAN.

I believe it to be true, as you say, that the seigniors that have the *haute justice*, (which is the highest of these powers of judicature,) have also, in consequence of it, a right to the escheats you mention. But this, in my apprehension, creates no obligation on the king and parliament of Great-Britain to preserve to

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them these rights of judicature, if they think them not beneficial to the province, provided his Majesty will be graciously pleased to give these seigniors this right to these escheats without the exercise of these obnoxious powers. For then they will have the contingent emoluments arising from these powers, for the sake of which emoluments only it can be pretended that these powers ought to be comprehended in the aforesaid 37th article of the capitulation. This will be a very small sacrifice for the crown to make for the peace and satisfaction of the province, these escheats being so exceedingly rare that the average value of them in the best seigniory in the province would probably be extremely trifling, or, rather, below all estimation. This, therefore, is an easy way of getting rid of this pretence for keeping up these seigneurial jurisdictions.

ENGLISHMAN.

I really think, that would be a very proper measure in the crown, and would, as you observe, take away all pretence for complaining that the suppression of these jurisdictions would be inconsistent with that 37th article of the capitulation.

capitulation. And, if there are any other pecuniary emoluments attending the exercise of these jurisdictions under the restrictions observed in the time of the French government, (for to no other exercise of them can the seigniors have the least pretence upon any ground,) it would, I doubt not, be very easy to find some manner of making the seigniors a pecuniary compensation for them, which should, with little or no expence to the government, greatly over-balance all the lawful emoluments arising from the exercise of those jurisdictions. I have two methods of doing this at present in my mind: but it is not worth while to trouble you with the mention of them, because I am inclined to think that these seigneurial jurisdictions are attended with no other pecuniary emoluments than the right to those casual escheats that have been already spoken of. And therefore, I now see no difficulty arising from the aforesaid 37th article of the capitulation in abolishing those jurisdictions, if the exercise of them is likely to be prejudicial to the province, or is likely to be thought so by the majority of its inhabitants: for all governments ought certainly to be carried on in a manner that is agreeable to the people.

FRENCHMAN.

That maxim is both a just and a wise one. It is just, because all governments are instituted for the benefit and happiness of the people governed; and it is wise, because the observation of it tends to preserve peace and harmony in the state, and a chearful obedience to the rulers of it. And in pursuance of this maxim I will venture to say, that it is highly expedient that these seigneurial jurisdictions should be formally suppressed. For, I must repeat to you what I said before, that the very possibility that our seigniors may one day resume the exercise of those powers of judicature is alarming and disagreeable to us. And certainly, if they were to resume them, and an assembly of the people was to be established in the province, whether of the form you have just now suggested, and which seems the best suited to this province, or of any other form whatsoever, the exercise of these powers of judicature would give the seigniors so great an influence over the freehold tenants of their respective seigniories that they would hardly dare to give their votes freely, and according

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to their real sentiments, where they happened to be of a different opinion from the seigniors upon any subject in which the latter took a zealous part. So that the suppression of these jurisdictions is a necessary preparatory circumstance to our enjoyment of the benefits of an assembly of the people : and I am sure the whole body of the freeholders of the province will esteem it so.

ENGLISHMAN.

If they all think so, that is enough for me ; and, in compliance with their wishes, even though I had not agreed with them in opinion concerning the dangers they apprehend from these powers of judicature, I should wish to see them abolished. I therefore join with you in hoping they will be so : only I hope that, when they are, the obligations on the crown, arising from the capitulation, will be fully and candidly considered, and, if any compensation is necessary to be made to the seigniors for the deprivation of these jurisdictions, that it will be made them in a manner that shall be consistent with justice and the honour of the English nation.

FRENCH-

FRENCHMAN.

You are mighty scrupulous about this matter. For my part, I have no objection to their having a compensation for these jurisdictions, if justice requires that they should have one: but of this I doubt for the reasons above-mentioned. However, if, upon a more exact inquiry into the matter, they shall be thought to be intitled to such a compensation, I am persuaded, that it can be but a small one. And I have no manner of doubt, that five English guineas, together with a grant of that right to the escheats of their tenants lands, which we spoke of a little while ago, as belonging to those seigniors who have and exercise the *haute justice* in their seigniories, would be more than an equivalent for all the pecuniary emoluments that can justly arise to the seignior from the exercise of these powers of judicature in the largest and best seignior in the province:---- I say, for all the pecuniary emoluments: which are the only advantages attending these jurisdictions, for which I think them intitled to a compensation. How to estimate the loss of dignity they will suffer by

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an abolition of these powers, that is, the deprivation of the pleasure of domineering over and harrassing their poor tenants by means of them, I confess, I do not know: but for this loss I am clearly of opinion, that they are not intitled to any compensation; because, if their rights of judicature are preserved to them at all by the aforesaid 37th article of the capitulation, they are preserved only so far as they are a part of their goods, or property, or are productive of pecuniary emoluments to them. But we have said enough upon this subject, which has too long interrupted you in the account you were giving me of the charter of the province of Massachusetts bay, and the alterations which the parliament has lately made in it. I beg, you would proceed in your account of that affair, and make me acquainted with the causes of the great dissatisfaction it has created throughout all America. You had explained to me the nature of the assembly of the Massachusetts bay, the number of its members, and the manner of chusing them, but had not said any thing of the council of the province, excepting that it consisted of 28 members.

members. Pray, how were those members appointed ?

ENGLISHMAN.

Of the council of the province of the Massachusetts bay.

They were chosen every year by the whole general court, that is, by the assembly and the members of the council for the preceding year voting all together ; and then they were presented to the governour for his approbation. If he approved them, they became members of the council for the next year : but, if he rejected them, the assembly and the members of the old council were to proceed to a new election of other persons to be presented in like manner to the governour for his approbation ; and these elections were to be repeated till such persons were chosen as the governour should approve. These elections were to be made on the first day of May in every year, which was the day on which the new assembly was to meet. For in this province a new assembly is chosen every year ; which is a very judicious provision, as it keeps up a close connection between them and the people, and makes them be really, what they always profess to be, the representatives of the people, the declarers of their

The assembly is chosen every year.

their sentiments, and protectors of their liberties and interests.

FRENCHMAN.

I approve much of that practice of chusing a new assembly every year. For, if they were chosen for many years together, there would be reason to apprehend, that they would grow proud and insolent, like our noblesse, and set up a separate interest of their own, distinct from that of the people at large. They might be tempted to assume to themselves, (either by their own votes, or with the assistance of the governour and council, as they should find most convenient,) great privileges and distinctions above their fellow-subjects, and perhaps also arbitrary powers over them, under various pretences of publick good, and decorum, and dignity, and the equity of assigning rewards to those who transact the publick business: or, at least, they might procure all the magistracies, and military commissions, and offices in the revenue, and other lucrative employments in the province, and all the temporary and occasional contracts and leases of publick lands or taxes, and all the other favours of govern-

The utility of frequent new elections of the members of the assembly.

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ment, to be distributed amongst them, to the prejudice of the rest of the people, whose hopes of obtaining these advantages in proportion to their several degrees of merit and service, would be thereby in a manner extinguished. This, I have hear'd, is the case in the Canton of Bern in Switzerland, where the government is lodged in the hands of a great council consisting of about two hundred members, who fill up their own vacancies when they happen, without any interference of the people. No honourable or profitable employment is ever bestowed upon any but these two hundred persons, or their near relations, and the rest of the people are considered as so many cyphers in the state, very much to their dissatisfaction. And the same kind of injustice would probably take place, though in a less degree, in the province of Massachusetts bay, if the assembly, when it was once chosen by the people, was to continue in being for many years together. It was therefore wise in the framers of their charter to provide, that the assembly should be chosen a-new by the people every year. As to the council indeed, I do not think there was the same necessity for making

Of the
council.

making the members of it annual. Perhaps it might have been better, when once they had been chosen into the council in the fair and honourable manner you have described, by the joint consent of the general court and the king's governour, to have permitted them to keep their seats for life, or during their good behaviour. By being made thus independent both on the governour and the assembly, they would have acquired a greater degree of weight and authority in the government, and their opinions and resolutions would have been more respected by the people than they are likely to be under their present constitution: and they might thereby have been more useful in preserving the peace of the province, and mediating, as it were, between the governour and the assembly, when any disputes, or differences, should have arisen between them; which, I presume, was one of the principal purposes for which they were instituted.

ENGLISHMAN.

Perhaps it might have been better, when this charter was granted to the province by king William, to have constituted the council

in the manner you describe. I incline to think it would have been so: and, for the reasons you have mentioned, I have often wished that the councils of those American provinces, which have no charters, but are governed merely by the king's commissions, by a governour, council, and assembly, were established in the manner you mention, for the lives or good behaviour of the members that compose them, instead of making the members of them wholly dependent, (as they now are throughout all those provinces,) on the pleasure of the crown or governour for their continuance in that office. And I should likewise be glad to see the number of the members that compose the councils, (which now is only twelve persons,) increased to thirty or thirty-one, and originally chosen in the same manner as in the province of the Massachusetts bay, by the joint consent of the assembly and the governour; though, if they were all to be appointed only by the king or the governour, it would still be a considerable improvement of the present constitution of the councils of those provinces in favour of the liberty of the people, they being at present appointed

appointed originally by the king alone, and also removeable intirely at his pleasure.

FRENCHMAN.

A council constituted as those are can, as I imagine, be of no weight, or estimation, in the eyes of the people, and consequently of no use in a time of civil discord. For the people will naturally suppose that a council consisting of persons who were both originally appointed by the crown and may be removed at any time at the pleasure of the crown, can be nothing but an echo of the governour's sentiments, or at best a neutral and silent spectator of the disputes between him and the assembly, instead of a free and open assertor of the cause of that party which they really conceive to be in the right. But, pray, tell me how the council of the Massachusetts bay have usually acted in times of difficulty, when the assembly has had disputes with the governours of the province, (which I am told has often happened in that province) before the late disturbances that have prevailed in all the English provinces in America for these ten years past. Did they, on those occasions, take part with the assembly against the governour

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in a manner that impartial people thought blameable, so as to manifest a great dependance on the assembly, and a fear of not being re-chosen by them into the council at the next election? or did they shew a disposition to support the governour's authority in all matters that were not inconsistent with the privileges granted to the people and the assembly by the charter? For experience is the best guide we can follow in disquisitions on political institutions, and its lessons are greatly to be preferred to the conclusions that can be drawn from mere reason and speculation concerning them even by the most sagacious persons.

ENGLISHMAN.

It certainly is so: and I am told that the evidence it affords on this occasion is much in favour of the constitution given to the council of the Massachusetts bay by king William's charter. For, though they have depended on the favour of the assembly for a re-election to their seats in the council, they have usually, till of late years, taken part with the governour against the assembly where his pretensions have had any shadow of reason to support them, and they have

have always opposed the attempts of the assembly to encroach on the prerogative of the crown. This I have been assured of by a very respectable merchant of Boston with whom I conversed in the month of December, 1769, who was very independent in his situation and circumstances, being an elderly single man and possessed of a very considerable fortune, which he had acquired by his skill and industry in trade. He died about two years after, and left, as I was assured, not less than £.20,000 sterling. He very much disapproved the riots that had happened at Boston in the year 1768, in opposition to the custom-house laws, and which had occasioned the quartering four regiments of soldiers in the town to preserve the peace of it; and he much approved the measure of sending those soldiers thither for that purpose, and commended their behaviour during the time they had been quartered there, notwithstanding the abuse which many of the discontented inhabitants of Boston were continually pouring out against them: and he lamented the removal of two of those regiments from Boston in the year 1769, which had given encouragement to the discontented and violent party in
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that town to renew their riotous proceedings, and to provoke and insult the soldiers of the two remaining regiments, (which consisted of only six hundred men,) by threats as well as ill language in a manner that was almost past bearing; which, a few months after, brought on that unhappy quarrel in which five of the most riotous persons of a mob of an hundred men, that insulted a sentinel on duty, were killed by a party of twelve soldiers that came to the sentinel's assistance. This happened on the 5th of March, 1770, and has very unjustly been called a massacre by the discontented party at Boston. For the fact was simply this. A sentinel, who was on guard at the custom-house, was insulted by a mob of riotous persons for more than two hours together, and at last was so closely pressed upon by them that he was afraid of being driven from his post, and therefore rung a bell for assistance to support him in it. Upon this captain Preston, an officer of merit, and a guard of twelve soldiers, came out to his assistance, and placed themselves near him for that purpose. The mob, which consisted of about an hundred men, continued their insults on the sentinel and the other soldiers,

Of the disturbance
at Boston
on the 5th
of March,
1770.

diers, and proceeded so far in their fury as to
 pelt them with large lumps of ice, and even
 to strike some of them with sticks or bludgeons,
 which provoked them to such a degree that,
 without any order from their officer, they, of
 their own accords, fired their pieces at their
 assaulters, irregularly and one after the other,
 partly from a motive of self-defence and partly
 from a sudden and natural resentment at the
 ill usage they had received : and by this fire
 five of the ringleaders of the mob were killed.
 The increase of the number of riots at Boston
 soon after the removal of the first two regiments
 from it, made the friends of government, and
 this gentleman among the rest, apprehensive of
 some such fatal misfortune ; and therefore they
 were sorry that they had been removed. I
 have mentioned these particulars concerning
 the gentleman I here allude to, in order to shew
 that he was not a factious and discontented man,
 or an enemy to government in general ; though
 it must be confessed he did not approve the
 stamp-act, nor the principle of taxing the in-
 habitants of that province by the authority of
 the British parliament. He was therefore,
 upon the whole, as I conceive, as impartial
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and candid a witness as could well be chosen to give a true account of the usual temper and conduct of the council of that province on the unhappy occasions of disputes between the governours and assemblies. And he gave me the account I have above related. He spoke of times antecedent to the stamp-act, as you, I think, proposed the question. For he acknowledged that since that act the council had been very languid in their endeavours to support the governour's authority, and had sometimes even joined with the assembly in their complaints and remonstrances against the measures he espoused. But this he thought was not to be ascribed to their dependance on the assembly for a re-election, (since on former occasions that dependance had not produced the same effect,) but to the general prevalence of the opinion that the British parliament had no legal right to tax the inhabitants of that province, or, if they had such a right in point of strict law, that it was not equitable in them to make use of it; which opinion he conceived to have been that of the members of the several councils of late years, that had disagreed with the governours, as well as of a vast majority of

the other inhabitants of the province, and of himself among the rest.

FRENCHMAN.

According to this account of the conduct of the councils of that province on former occasions there is little or no reason to wish that they had been constituted otherwise than they were. For it ought not to be expected or desired that they should assist or support the governour in opposition to the assembly in cases where they really agree in opinion with the latter, and consequently approve of their proceedings. This would be a dreadful kind of corruption for them to fall into, and would render them both odious and contemptible in the eyes of the people, and consequently of little use to the government. For it is the approbation of good and impartial men, who are qualified by their educations and situations in life to judge of publick measures, that gives weight and dignity to the conduct of publick officers. But, pray, proceed in your account of the charter of this province, and of the alterations which have been made in it by the late act of parliament passed for that purpose.

ENGLISHMAN.

The unwillingness which the council of the province had shewn of late years, (chiefly since the passing of the stamp-act,) to support the authority of the governours in their disputes with the assembly, gave prodigious offence to the governours, and occasioned them to write letters to his Majesty's ministers of state in England, complaining of the refractory spirit that, as they said, appeared in the council as well as the assembly of the province. And they ascribed this spirit, not (as, I presume, they ought to have done,) to the delicate nature of the subject that was disputed between the governour and the assembly, namely, the right of the British parliament to tax the Americans (which hardly any people in America have been willing to recognize,) but to the dependance of the members of the council on the assembly for a re-election to their seats in the council; forgetting that on former occasions the council had often sided with the governour against the assembly notwithstanding that dependance. And they even represented this change of conduct in the council as a matter of

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of such high importance, and as being so very prejudicial to the conduct of publick business in the province, that it was absolutely necessary to find a remedy for it. They therefore recommended to the ministry the exertion of the supream and uncontrollable authority of the parliament of Great-Britain to correct the charter of the province in this particular, and make the council less dependant on the assembly.

FRENCHMAN.

This was a very bold piece of advice. For, though it should have been true that the council was too much influenced by its dependance on the assembly, and all the sensible men in the province should have perceived that it was so, and have wished that the council had originally been made more independent, yet I should think they would not like to have its constitution altered without their own consent by the authority of such a distant legislature as the British parliament, over whose proceedings they had no influence or controul. The power of changing their charter for the better, otherwise than at their own request, would involve in it, as they would naturally suppose, the

the power of changing it for the worse, which they might fear would be used on some other occasion : and therefore I should have expected that they would be greatly displeased at any alteration in their charter that should be made without their own consent.

ENGLISHMAN.

It was certainly to be expected that such a measure would greatly displease them. And the ministry of Great-Britain seemed for a long while to be apprehensive that it would do so. For, notwithstanding the suggestions of the governours of the province, they for a long time forbore to meddle with the charter, even till the unfortunate affair of the destruction of the tea at Boston in December, 1773. But that act of violence threw both the whole ministry and parliament of Great-Britain, and, one may almost say, the whole British nation, into a fit of indignation and fury against the Americans, which lasted throughout the whole session of parliament in the spring of the year 1774, and produced a series of acts of parliament that favoured of the temper in which they were framed, being every one more severe
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and vindictive, and alarming and irritating to the Americans, than that which was next before it, from the bill for shutting up the harbour of Boston, which was passed the first, to the Quebec bill, which concluded them.

FRENCHMAN.

Pray what induced the people of Boston to commit so great an outrage, by which they were so likely to draw upon themselves the resentment of the mother-country? And what do they alledge in justification of so violent a proceeding?

ENGLISHMAN.

All their arguments in justification of this proceeding turn upon the grand point which has been so warmly contested of late years between Great-Britain and her colonies in America, the right of the British parliament to impose taxes on the Americans. Had this point been clearly settled, either in the affirmative or the negative, between Great-Britain and her colonies, that act of violence would never have been committed. But, as that right was insisted on by Great-Britain and positively denied
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by the Americans, the endeavour to carry it into execution has met with a resistance from the Americans, which they consider as being lawful, because it is made to an illegal exertion of power.

FRENCHMAN.

Of the grounds upon which the Americans pretend that the parliament has no right to tax them.

Pray, upon what ground do the Americans deny the right of the British parliament to tax them? For we, Canadians, have always been told that the British parliament, consisting of the King, the Lords, and the Commons of Great-Britain, are the supream legislature of Great-Britain and all its dependencies; and accordingly we think ourselves bound to submit to the late act of parliament for regulating the government of this province, notwithstanding we much dislike it; and, as to the other act of parliament, for imposing certain duties on spirituous liquors in this province, which was passed at the same time as the former, I have heard no complaints at all against it either from the Canadians or the English inhabitants of the province. We esteem the duties themselves to be moderate and judicious, and such as it is reasonable the province should pay towards the maintenance

maintenance of its own civil government, and we
 consider the authority of the parliament, by which
 they were imposed, as indisputably adequate to
 such an operation. Our notion of the change made
 in our political situation by the conquest of the
 province in 1760 is this; that, whereas we
 were before subject to the single authority of
 the king of France, who might tax us and
 make laws for us in the manner he thought
 proper, we have since that time been subject
 in the same degree to the joint authority of the
 king and parliament of Great-Britain, whose
 power in Great-Britain is, as we have been
 informed, full as extensive and uncontrollable
 as that of the king of France is in France.
 And by this change we consider ourselves as
 being gainers, because we think that a legisla-
 ture consisting of a King, a House of Lords
 of more than two hundred members, and a
 House of Commons of more than five hundred
 members, having each of them a negative on
 the resolutions of the other two, are less likely
 to pass any acts by which we may be injured
 and oppressed, than a king alone would be,
 who might be easily imposed upon and led into
 bad measures by artful and wicked ministers.

ENGLISHMAN.

I intirely approve of your notions of the present political situation of the province of Quebeck. It is the same with that which I have always entertained myself upon that subject. It would indeed be a strange doctrine to say that, when a country has been conquered by the British arms, and afterwards formally ceded to the crown of Great-Britain, (as this has been,) it should not become subject, in point of legislation and taxation and every species of political government, either to the king alone or to the king and parliament conjointly. The only doubt which has been formerly made upon this subject has been whether the king alone did not, upon the conquest and cession of a country to the crown of Great-Britain, become intitled to the whole power of government over it, without the concurrence, or interference, of the parliament. And many English lawyers have formerly been of opinion that the king did become intitled to this power. But the other opinion, of the right of the parliament to a share of the legislative authority over such new-acquired country as well

as over the ancient possessions of the crown, seems to be more reasonable, and, I think, is more generally adopted at this day.

FRENCHMAN.

Since that is the opinion that now prevails, how comes it that the Bostonians and other English Americans pretend that the king and parliament have no power of imposing taxes upon them? They would not surely chuse to be taxed by the king's single authority, without the concurrence of the parliament.

ENGLISHMAN.

No: by no means. That they would consider as a much worse condition than the being subject to the king and parliament conjointly; though some of their writers have now and then, in the heat of argument, declared that, of the two, they would rather chuse to be subject to the king alone, in point of taxation, than to the king and parliament conjointly. But in this they could hardly be sincere; or, if they were, it was probably only a momentary sentiment, while their minds were full of indignation against the thought of

being taxed by the parliament, and not their settled and deliberate opinion, or, at least, not that of the greater part of the Americans. However, they expressly reject both these authorities, and insist that no taxes can be lawfully levied upon them but by their own representatives, chosen by themselves for that purpose, in the assemblies of their respective provinces, which they consider as so many separate parliaments, that have the same legislative powers in their respective provinces as the British parliament has in Great-Britain.

FRENCHMAN.

This pretension of theirs seems favourable to liberty, but prejudicial to the unity of the British empire. For, if there is no common legislature whose power extends over all the dominions of the crown of Great-Britain, those dominions cannot properly be said to make one *state*, or *great political community*, but are rather an assemblage of several separate states under the same king, or executive magistrate. This must produce a variety of counsels in the several parts of the British empire, which must tend very much to lessen the weight and influence

fluence they would have if they acted under one supreme legislative head. But, pray, upon what reasons do they found this pretension of being exempt from the legislative authority of the British parliament? Is there any thing in their charters that countenances a claim of this kind? or do they maintain it only upon general principles of equity and liberty and the rights of nature?

ENGLISHMAN.

They ground their claim upon both these reasons, but principally upon the latter, the general principles of equity and the law of nature; which indeed is by much their best argument. For their charters afford little ground for this pretension, as I shall leave you to judge when I have stated to you the manner in which they argue from them. In both the charters of the Massachuset's bay, the old and the new one, and in most of the other charters of the American colonies, there is a clause inserted that declares that the children of the persons who shall go and settle in those colonies shall have all the privileges of English subjects born within the realm of England.

An argument of the Americans derived from their charters.

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The clause in king William's charter to the inhabitants of the Massachusets bay is in these words: "*And further, our will and pleasure is, and we do hereby, for us, our heirs and successors, grant, establish, and ordain, That all and every the subjects of us, our heirs and successors, which shall go to, and inhabit within, our said province or territory, and every of their children which shall happen to be born there, or on the seas in going thither or returning from thence, shall have and enjoy all liberties and immunities of free and natural subjects within any of the dominions of us, our heirs and successors, to all intents, constructions, and purposes whatsoever, as if they, and every of them, were born within this our realm of England.*" The plain meaning and design of this clause was to prevent the children of Englishmen, who should go from England and settle in the province of the Massachusets bay, from being considered as foreigners and excluded from the privileges of natural-born subjects of England, such as the right of purchasing land in England and of holding offices of trust and profit, and the like, which it might otherwise have been doubted whether they were intitled to. Yet, from this

clause

clause some of the American writers have attempted to derive a proof that they are exempted from the authority of parliament with respect to taxation, by the following train of reasoning. The American colonists are intitled, say they, by virtue of this clause, to the same privileges as the inhabitants of old England. But the inhabitants of old England are intitled to be exempt from paying any taxes but such as granted to the crown by themselves or their representatives, chosen by themselves, (or by such among themselves as have freehold land of the annual value of forty shillings,) in the commons house of parliament. Therefore, the Americans are intitled in like manner to be exempt from paying any taxes but such as are granted by themselves or their representatives, chosen by themselves, in the assemblies of their respective colonies. This argument is rather a bold than an artful one, since the fallacy of it is so extremely evident that it can hardly escape the least discerning reader. For, it fails in the very first proposition, which affirms, that, by virtue of the aforesaid clause, the American colonists are intitled to the same privileges as the inhabitants of old England. Now, this clause has

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not the least relation to the degree of their political freedom in their own province, but barely to their condition when they shall come to England, or go to some other dominion of the crown of Great-Britain that is out of their own province ; and in that case it provides for their enjoyment of the same privileges in England, or such other dominion of Great-Britain, (notwithstanding their having been born in America,) as if they had been natives of England. The degree of their political liberty in their own province is determined in the other clauses of the charter, which settle their right of chusing their representatives in the assembly, the right of their assembly to chuse the council, the powers to be exercised by the governour, and the governour and council, and by the governour, council, and assembly, and, in short, by almost every clause in the charter, except that which they adduce in support of this claim of an exemption from the parliament's power of taxing them.

Another argument of the Americans derived from their charters.

But there is another argument in support of this claim, which they also derive from their charter, and which is much more plausible than

than the former, though not, in my opinion, by any means conclusive. Their charter gives the governour, council, and assembly of the province a power to raise money upon the people; which they contend to be an *implied*, or *virtual*, exclusion of the parliament from any right to exercise the same power over them. For, say they, if the parliament may tax us, we shall be liable to be taxed by two distinct legislatures; which is absurd and unjust. But I confess, I can see neither injustice nor absurdity in a man's being liable to be taxed by two, or even by twenty, different legislatures, if such is the constitution of the society he belongs to. And I believe there are few countries in which a man is not liable to be taxed by several different authorities on different occasions and for different purposes. In England people are taxed by one set of men towards the maintenance of the poor; by another, in London and many other great towns, towards paving the streets and lighting the lamps; by a third in corporate bodies, towards the joint or common expences of the community; and by the parliament towards the general expences of the nation, such as the maintenance of the

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fleet,

fleet, the army, the publick arsenals and fortresses, the administration of justice and the support of the king's household. There is nothing in all this that is either absurd or unjust. Unless therefore the clauses in the American charters by which the governours, councils, and assemblies are impowered to raise taxes upon the people, contain some clear and express words that exclude all taxation by any other authority, it will not follow by mere implication, from their having such a power, that the parliament has not likewise an authority to raise taxes on them, when the publick exigencies of the state require it. We must therefore examine the charters of the several provinces of America that have charters, (for some of them have no charters, but are governed merely by the king's commissions,) in order to see whether they contain any clear and express words of exclusion of every other method of taxation, except by their own assemblies. Now, if we do this, we shall find one and but one charter in all America in which there is any appearance of such words of exclusion: and that is the charter of Maryland.

Of the
charter of
Maryland.

In that charter, which differs considerably from

most of the other charters on the continent, (being a grant to the lord Baltimore, made by King Charles I. in the year 1632, of a tract of country to be holden as a county palatine,) there is a clause that perhaps may be thought to amount to an exclusion of the right of parliament to tax the inhabitants of that province, or to a promise on the part of the king and his successors, that they never will give their assent to any bill that shall be proposed to them in the English parliament for taxing them. It is in these words: "*And further, our pleasure is, and by these presents, for us, our heirs and successors, we do covenant, and grant, to and with the said lord Baltimore, and his heirs and assigns, that we, our heirs and successors, shall at no time hereafter set or make, or cause to set, any imposition, custom, or other taxation, rate, or contribution whatsoever, in and upon the dwellers and inhabitants of the aforesaid province, for their lands, tenements, goods, or chattels, within the said province, or in and upon any goods or merchandize within the said province, or to be laden or unladen within the ports or harbours of the said province.*" By this clause the king covenants with lord Baltimore, that

he will not set, or cause to set, any imposition, or tax, upon the people of Maryland; by which it may be contended that he meant to tie himself up from assenting to any bills in parliament for taxing them. Yet I much doubt, whether that was the true meaning of this clause, because the king's giving his assent to a tax-bill is not properly *setting a tax, or causing others to set it*, but is accepting a free gift from the people, made in their names, and for them by their representatives, or agents, the members of the house of commons. For the form of giving the royal assent to such a bill is not by these words, "*Le Roi le veut*," which are the words used in giving the royal assent to any other bill, but by these words, "*Le Roi remercie ses bons sujets, et accepte leur bienveillance*," so that the king can hardly be said to have *set* a tax, or caused others to set it, when he has given the royal assent to it. Another reason why I doubt whether the foregoing clause is to be understood as a promise on the part of the crown never to consent to a bill of the British parliament for taxing the inhabitants of Maryland, is this. The king at this time governed the nation by his own absolute authority with

out a parliament, and had publickly declared, by a proclamation made three years before the passing this charter, that he did not intend to call any more parliaments; which resolution he kept for eleven years together, from the year 1629 to the year 1640, governing all that time in an illegal and arbitrary manner, and causing many cruel punishments to be inflicted by certain courts of justice which were then in being, and which were intirely devoted to his pleasure, (but which have been since abolished,) on all those persons who presumed to find fault with his government; till at last he drove his people into that famous civil war, which, after various successes during four years, ended at last to his disadvantage, and was followed first by his being imprisoned by his own victorious subjects, and afterwards (upon his repeated refusals to make peace with them upon the terms they required,) by his being publickly beheaded by them. It was during these tyrannical eleven years, when it was made criminal in England to talk of the meeting of a parliament, that King Charles granted this charter to the Lord Baltimore: and therefore it seems probable that neither the King nor
 Lord

Lord Baltimore had any view to parliamentary taxation when it passed. And there is still another circumstance that induces me to think that the foregoing clause in the charter of Maryland ought not to be construed as an exclusion of all parliamentary taxation upon the inhabitants of that province. It is this. This charter was intended to convey to the Lord Baltimore and his heirs and assigns, the same powers and privileges as belonged to the bishops of Durham in England, as appears by the following words of it; "*Together with all and singular the like, and as ample, rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, royal rights and franchises, of what kind soever, temporal, as well by sea as by land, within the country, isles, islets, and limits aforesaid; to have, exercise, use, and enjoy, the same as amply as any bishop of Durham, within the bishoprick or county palatine of Durham in our kingdom of England, hath at any time heretofore had, held, used, or enjoyed, or of right ought, or might have had, held, used, or enjoyed.*" From this clause it seems reasonable to conclude that the intention of King Charles I. and Lord Baltimore, at the time of passing this charter, was,

That

That the inhabitants of Maryland should stand in the same relation to the crown (whatever that relation might be) as the inhabitants of the bishoprick of Durham in England, and consequently that the king should be at liberty to exercise the same authority over them as over the inhabitants of that bishoprick, and levy money upon them in the same cases in which he might lawfully levy money upon those inhabitants. Now at that time it was customary for the inhabitants of the bishoprick of Durham to contribute to such taxes as were granted to the crown by the parliament of England, notwithstanding they did not send any representatives to it. And therefore it should seem that the inhabitants of Maryland must have been liable in like manner to contribute to such taxes as should be granted for them to the crown by the parliament of England, or, at least, that their charter could not exempt them from such an obligation, if, upon other grounds, they should be subject to it.

It is true indeed that about thirty years after, when king Charles the second was restored to the possession of his father's throne, the inhabitants

tants of the bishoprick of Durham did make an application to the crown for leave to send members to the English parliament, upon the ground of the reasonableness and equity of having some share in passing those laws which they were bound to obey, and in granting those taxes to which they were bound to contribute; acknowledging their obligation to submit to the laws and taxes imposed on them by the English parliament. And this request of theirs was thought reasonable and was complied with; and an act of parliament was passed to empower them, for the future, to send four members to the parliament, two of which were to be chosen by the citizens of the city of Durham, and the other two by the freeholders of the whole bishoprick. And in like manner, no doubt, the people of Maryland, if they were fully to acknowledge, and submit to, the right of the British parliament to make laws and taxes for them, would have an equitable ground for desiring the privilege of sending members to it. But this they have not done: and in the mean time the example of the bishoprick of Durham, (which was, in a great measure made the model of the government of their province)

province) seems rather to shew that they are not exempted by virtue of their charter from an obligation of paying such taxes as shall be granted for them from time to time to the crown by the parliament of Great-Britain.

Upon the whole, therefore, I am inclined to think that even the inhabitants of Maryland are not exempted by their charter from the obligation of paying such taxes as the British parliament shall grant for them to the crown, if they would be legally subject to such an obligation upon any other grounds; which is another question, which we will consider presently.

And if the province of Maryland is not exempted from parliamentary taxation by its charter, I am sure no other province in America can pretend to be so upon the same ground. For in the charter of Pennsylvania, Of the charter of Pennsylvania. which was granted by king Charles II. to William Penn, and his heirs and assigns, in the year 1682, that is, fifty years after the grant of the charter of Maryland, there is a clause which expressly recognizes the power
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of the king and parliament of Great-Britain to impose taxes on the inhabitants of that province. It is in these words. "*And further, our pleasure is, and by these presents, for us, our heirs and successors, we do covenant and grant, to and with the said William Penn, and his heirs and assigns, that we, our heirs and successors, shall at no time hereafter set or make, or cause to set, any imposition, custom, or other taxation, rate, or contribution whatsoever in and upon the dwellers and inhabitants of the aforesaid province, for their lands, tenements, goods, or chattels within the said province, or to be laden or unladen within the ports or harbours of the said province, unless the same be with the consent of the proprietary, or chief governour, and assembly, or by act of parliament.*" From these last words it is plain that king Charles II. did not mean to exempt the inhabitants of Pennsylvania by this charter from such taxes as should be imposed on them by the English parliament, but rather that he supposed they would still continue liable to pay those taxes in the same manner as they would have been if they had stayed in England instead of going to settle in Pennsylvania. And it is probable

probable that William Penn and his followers had at that time no view, or desire, of being exempt from parliamentary taxation, but only wished to be secured against any taxes which the king by his single authority might be tempted to impose upon them; there being then (as I observed before) an opinion prevailing amongst many people, and countenanced by the court lawyers of the time, that the king of England might govern the dependent dominions of the crown by his own absolute authority and without the concurrence of the parliament, unless he precluded himself from so doing by his own act by granting a charter to the inhabitants of such a dependent dominion containing the intended limitations of his said absolute authority; in which case it was supposed that he would be bound by those limitations. And against such a taxation, by the single authority of the crown, the clause above-recited is a very proper guard. It is plain therefore that the inhabitants of Pennsylvania cannot justly pretend to be exempted from parliamentary taxation by virtue of their charter. Nor indeed do they, as I believe, pretend to it upon that ground.

Of the
charter of
the pro-
vince of
the Massa-
chufets
bay.

I will next consider the charter which was granted by king William to the inhabitants of the Massachusets bay in the year 1692 which we have had frequent occasion to speak of already. The only clause in this charter that has any relation to the raising money upon the inhabitants of the province, is in these words. "*And we do, for us, our heirs and successors, give and grant, that the said general court, or assembly, shall have full power and authority to impose and levy proportionable and reasonable assessments, rates, and taxes, upon the estates and persons of all and every the proprietors, or inhabitants, of our said province, or territory, to be issued and disposed of by warrant under the hand of the governour of our said province for the time being, with the advice and consent of the council, for our service in the necessary defence and support of our government, our said province or territory, and the protection and preservation of the inhabitants there, according to such acts as are or shall be in force within our said province.*" Here are no words that exclude the authority of parliament to impose other taxes on the inhabitants of the province. On the contrary, the words

this clause afford a reasonable ground for sup-
 posing that it was the intention of the framers
 of this charter, and of king William who
 granted it, that those inhabitants should con-
 tinue subject to parliamentary taxation. For
 the power of raising money on them granted
 to the assembly by this clause is not a general
 power of raising it for any publick purpose
 whatsoever, but only for the necessary defence
 and support of the king's government of the
 said province. Suppose therefore that the
 assembly of the Massachusetts bay were in-
 clined to contribute a certain sum of money
 towards the expence of the king's household,
 or towards the maintenance of the British
 fleet or army, or the fortifications of Gibraltar
 or Port Mahon, (all which are branches of
 the publick expence of the nation to which
 it is reasonable that both they and all other
 subjects of the crown should contribute in
 proportion to their abilities,) and to direct
 that this money should be sent to England,
 and lodged in the king's exchequer there,
 and issued by the warrants of the king's lord
 high treasurer, or of the commissioners ap-
 pointed to execute the office of lord high
 treasurer,

treasurer, for the several purposes for which it had been granted;---so much to the king for his civil list; so much to the treasurer of the navy for the support of the fleet; so much to the paymaster of the army for the support of the army; and so on;----I say, if the assembly of the Massachusetts bay were to be disposed to do these equitable and generous actions, they would not have a legal right to do them by means of the aforesaid clause in their charter; because they are thereby impowered only to raise money upon the inhabitants of the province *for the necessary defence and support of the government of the said province, and the protection and preservation of its inhabitants.* Yet these contributions to the general expences of the British empire are in themselves reasonable and proper, and fit to be made by the people of the Massachusetts bay, as well as by all the other subjects of the crown, as soon as they shall be in a sufficient state of opulence to be able to make them: and king William, and the framers of the charter he granted to that province, must necessarily be supposed to have thought them so. And therefore, as he thought fit to give,

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by this charter, to the assembly of this province only a limited power of raising money upon the inhabitants of it for the use of the province itself, it is reasonable to conclude that he supposed they would continue liable to be taxed by the English parliament towards those other and more general branches of the publick expence after they had received this charter as well as before. And if to this way of reasoning upon this subject (which seems to me to be a very fair one) we add this other consideration, that this charter to the Massachusetts bay was granted ten years after the charter of Pennsylvania, in which the power of the English parliament to impose taxes on the inhabitants of it is expressly recognized, notwithstanding the privileges granted by that charter to William Penn and his followers are in other respects uncommonly extensive, it will be almost impossible to conceive that the aforesaid clause in the charter of the Massachusetts bay (by which the assembly is impowered to raise taxes for certain purposes on the inhabitants,) was intended by king William to exempt them from parliamentary taxation. And there

there is no other clause in this charter that has any relation to this subject. We may therefore conclude that the inhabitants of the Massachusetts bay are not exempted by their charter from the obligation of paying the taxes which the British parliament shall impose upon them.

Of the
charters of
Connecti-
cut and
Rhode
island,

The charters of the colonies of Connecticut and Rhode-island contain no clause to impower the assemblies of those colonies to raise money upon the other inhabitants. They contain only a limited power of making laws for the good government of those colonies. The clause for this purpose in the charter of Connecticut is in these words. “ *And we further, of our especial grace, certain knowledge, and meer motion, give and grant unto the said governour and company of the English colony of Connecticut in New-England in America, and their successors, that it shall and may be lawful to and for the governour, or deputy governour, and such of the assistants of the said company for the time being as shall be assembled in any of the general courts aforesaid, or in any courts to be especially summoned or assembled for that purpose, or the greater*

part

part of them, (whereof the governour, or deputy-governour, and six of the assistants to be always seven,) to erect and make such judicatories for the hearing and determining of all actions, causes, matters, and things happening within the said colony or plantation, and which shall be in dispute and depending there, as they shall think fit and convenient; and also, from time to time, to make, ordain, and establish all manner of wholesome and reasonable laws, statutes, ordinances, directions and instructions, not contrary to the laws of this realm of England, as well for settling the forms and ceremonies of government and magistracy fit and necessary for the said plantation and the inhabitants there, as for naming and styling all sorts of officers, both superiour and inferiour, which they shall find needful for the government and plantation of the said colony and the distinguishing and setting forth of the several authorities, powers, and limits of every such office and place, and the forms of such oaths, (not being contrary to the laws and statutes of this our realm of England) to be administered for the execution of the said several offices and places; as also for the disposing and ordering of the election of such of the said officers as are to be annually chosen, and

Power to
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of such others as shall succeed, in case of death or removal, and administering the said oath to the new-elected officers, and granting necessary commissions, and for imposition of lawful fines, mulcts, imprisonments, or other punishments, upon offenders and delinquents, according to the course of other corporations within this our kingdom of England; and the same laws, fines, mulcts and executions, to alter, change, revoke, annul, release or pardon, under their common seal, as by the said general assembly, or the major part of them, shall be thought fit; and for the directing, ruling and disposing of all other matters and things whereby our said people, inhabitants there, may be so religiously, peaceably and civilly governed as their good life, and orderly conversation, may win and invite the natives of the country to the knowledge and obedience of the only true God and Saviour of mankind, and the Christian faith, which in our royal intentions, and the adventures free profession, is the only and principal end of this plantation; willing, commanding and requiring, and by these presents, for us, our heirs and successors, ordaining and appointing, that all such laws, statutes and ordinances, instructions, impositions and directions, as shall be so made by

the governour, deputy-governour and assistants, as
 foresaid, and published in writing under their
 common seal, shall carefully and duly be observed,
 kept, performed, and put in execution, according
 to the true intent and meaning of the same; and
 these our letters patents, or the duplicate or exem-
 plification thereof, shall be, to all and every such
 officers, superiours and inferiours, from time to
 time, for the putting of the same orders, laws,
 statutes, ordinances, instructions and directions,
 in due execution, against us, our heirs and suc-
 cessors, a sufficient warrant and discharge.”

The said
 laws shall
 be pub-
 lished in
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 their com-
 mon seal.

And the clause for this purpose in the charter
 of Rhode-island is in these words. “ And
 further, we do of our especial grace, certain
 knowledge, and mere motion, give and grant unto
 the said governour and company of the English co-
 mpany of Rhode-island and Providence plantations, in
 New-England, in America, and their successors,
 that the governour, or in his absence, or by his
 permission, the deputy-governour of the said com-
 pany, for the time being, the assistants, and such
 of the freemen of the said company as shall be so as
 foresaid elected or deputed, or so many of them
 as shall be present at such meeting or assembly, as

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Powers of
the general
assembly.

Power to
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aforesaid, shall be called the general assembly; and that they, or the greatest part of them then present, (whereof the governour, or deputy-governour, and six of the assistants at least, to be seven,) shall have, and have hereby given and granted unto them, full power and authority, from time to time, and at all times hereafter, to appoint, alter, and change such days, times and places of meeting, and general assembly, as they shall think fit, and to chuse, nominate and appoint such and so many persons as they shall think fit, and shall be willing to accept the same, to be free of the said company and body politic, and them into the same to admit, and to elect, and constitute such officers and officers, and to grant such needful commissions as they shall think fit and requisite, for ordering, managing, and dispatching of the affairs of the said governour and company, and their successors; and, from time to time, to make, ordain, constitute, or repeal, such laws, statutes, orders and ordinances, forms and ceremonies of government and magistracy, as to them shall seem meet, for the good and welfare of the said company, and for the government and ordering of the lands and hereditaments herein after mentioned to be granted, and of the people that do, or at any time hereafter

shall

shall inhabit, or be within the same; so as such laws, ordinances, and constitutions, so made, be not contrary and repugnant unto, but, as near as may, agreeable to the laws of this our realm of England, considering the nature and constitution of the place and people there; and also, to appoint, order, and direct, erect and settle such places and courts of jurisdiction, for bearing and determining of all actions, cases, matters and things, happening within the said colony and plantation, and which shall be in dispute, and depending there, as they shall think fit; and also to distinguish and set forth the several names and titles, duties, powers and limits, of each court, office and officer, superiour and inferiour; and also, to contrive and appoint such forms of oaths and attestations, not repugnant, but as near as may be agreeable as aforesaid to the laws and statutes of our realm, as are convenient and requisite, with respect to the due administration of justice, and due execution and discharge of all offices and places of trust, by the persons that shall be therein concerned; and also to regulate and order the way and manner of all elections to offices and places of trust, and to prescribe, limit and distinguish the number and bounds of all places, towns and cities,

Power to
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Reference
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cities, with the limits and bounds herein after mentioned, and not herein particularly named, who have or shall have the power of electing and sending of freemen to the said general assembly; and also to order, direct and authorise, the imposing of lawful and reasonable fines, mulcts, imprisonments, and executing other punishments, pecuniary and corporal, upon offenders and delinquents, according to the course of other corporations within this our kingdom of England; and again, to alter, revoke, annul or pardon, under their common seal, or otherwise, such fines, mulcts, imprisonments, sentences, judgments and condemnations, as shall be thought fit; and to direct, rule, order and dispose of all other matters and things, and particularly of that which relates to the making of purchases of the native Indians, as to them shall seem meet; whereby our said people and inhabitants in the said plantations, may be so religiously, peaceably and civilly governed, as that by their good life, and orderly conversation, they may win and invite the native Indians of the country to the knowledge and obedience of the only true God and Saviour of mankind; willing, commanding and requiring,
and

and by these presents, for us, our heirs and successors, ordaining and appointing, that all such laws, statutes, orders and ordinances, instructions, impositions and directions, as shall be so made by the governour, deputy, assistants and freemen, or such number of them as aforesaid, and published in writing under their common seal, shall be carefully and duly observed, kept, performed and put in execution, according to the true intent and meaning of the same. And these our letters patents, or the duplicate or exemplification thereof, shall be to all and every such officers, superiour or inferiour, from time to time, for the putting of the same orders, laws, statutes, ordinances, instructions and directions, in due execution, against us, our heirs and successors, a sufficient warrant and discharge."

It is only by virtue of these clauses in the charters of Connecticut and Rhode-Island that it can be pretended, that the assemblies of those provinces have any power of raising money upon the other inhabitants of them, and this by an indirect method of reasoning, that is, by considering this power as a branch
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of the power, given them by these clauses, of making laws and ordinances for the good government of the province ; which is but a doubtful and uncertain way of conveying to a corporation so important a power as that of raising money upon the members of it, and such as would not, I believe, be allowed to be valid in the case of a new charter that should be granted to a corporation. And this power of making laws seems to be of a very limited nature, and to relate only to the making such new offences as shall be punished by fines or imprisonment, and not such as shall be punished by loss of life or limb, and has an express reference to the powers granted in the charters of other corporations in England, none of which are in any degree exempt from the authority of parliament either with respect to laws or to taxes. It seems to me, therefore, that neither of these two charters can be fairly supposed to convey to the inhabitants of those provinces an exemption from parliamentary taxation.

I have now given you an account of all the charters I am acquainted with on the continent

inent of North-America, so far as they relate to the power of raising taxes on the Americans; and have stated to you the arguments which the Americans derive from these charters in support of their claim of being exempted from taxation by the British parliament, together with the reasons that induce me to consider those arguments as altogether inconclusive. I am afraid I have been rather tedious in making this deduction. But I really could not make it shorter, without omitting something that I thought material and fit for your consideration. But now you have the whole subject before you in as full a manner as I am acquainted with it, and are therefore able to form an opinion upon it for yourself without any regard or reference to mine; which, I presume, is what you would wish to do.

FRENCHMAN.

As the contents of these American charters were quite unknown to me before, (except only as far as I had seen them alluded to, or imperfectly cited, in newspapers,) I have not thought your account of them at all too long. So new a subject requires a pretty

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full

full explanation ; more especially when it has been made the subject of controversy, (as this has been,) and given occasion to subtle and artificial reasonings in support of a favourite conclusion. As to my opinion on the claim of the Americans to be exempted from parliamentary taxation in consequence of these clauses in their charters, I must needs answer that I can hardly yet venture to form an opinion upon a subject of so delicate a nature which I have now hear'd discussed for the first time. However, as far as I can judge of it on this sudden information, I agree with you in thinking, that the Americans have no manner of title to be exempted from the authority of the parliament of Great-Britain with respect to the imposition of taxes, in consequence of any thing contained in the clauses you have recited from their charters. But many of the provinces, I find, are governed without charters, by the authority of the king's commissions to his governours. Pray, is there any thing in those commissions that countenances this claim of the Americans to be exempt from parliamentary taxation ?

Of the royal governments in America, that have no charters, but are governed by the king's commissions.

ENGLISH

ENGLISHMAN.

Not a word; as you shall soon be convinced. The commissions of Captain-general and Governour in chief, that are given by the king's Majesty to his Governours of the several provinces in North-America that are under his immediate government, are, I believe, very much like each other, and contain nearly the same powers and directions, one as the other, for the government of those provinces: so that, if we examine one of these commissions with a view to the subject of our present inquiry, we may apply the conclusions we shall draw from such an examination to the other provinces that are governed by his majesty's commissions. We will therefore examine the commission of the governour of New-York. Now in that commission there is no clause that expressly impowers the governour, council, and assembly of the province to impose taxes on the people: but there is only a clause to empower them to make laws and ordinances for the peace, welfare, and good government of the province, which has been generally supposed to involve in it a power of raising mo-

ney upon the inhabitants of the province as a part, or branch, of the more general power of making laws. And this interpretation of this clause is countenanced by a subsequent clause in the same commission, which evidently supposes that money may be raised in the province by virtue of it, and directs and impowers the governour, by and with the advice and consent of the council of the province, to issue out, by his warrants, the money which shall be so raised, and dispose of it for the support of the government of the province, and not otherwise. And it is only under this clause, which impowers the governour, council, and assembly of the province to make laws and ordinances, that money has ever been raised upon the people of that province. This clause is as follows: “ *And you, the said Danvers Osborn, by and with the consent of our said council and assembly, or the major part of them respectively, shall have full power and authority to make, constitute, and ordain, laws, statutes, and ordinances, for the publick peace, welfare, and good government of our said provinces, and of the people and inhabitants thereof, and such others as shall resort thereto, and for the benefit of*

our heirs and successors: which said laws, statutes, and ordinances are not to be repugnant, but, as near as may be, agreeable to the laws and statutes of this our kingdom of Great-Britain.

The other clause in this commission to the governour of New-York, which impowers him, with the consent of the council of the province, to dispose of the publick monies that shall be raised in the province by any act of the governour, council, and assembly, is in these words. “ *And our further will and pleasure is, that all publick monies raised, or which shall be raised, by any act to be hereafter made within our said province and other the territories depending thereon, be issued out by warrant from you, by and with the advice and consent of our council, and disposed of by you for the support of the government, and not otherwise.*”

You see, by this example, that the king's commissions to his governours, in those provinces which have no charters, are, if any thing, more unfavourable to the American claim of an exemption from parliamentary taxation than
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the charter of the Massachusets bay. For by that charter the governour, council, and assembly of the province, are expressly impowered to raise money upon the inhabitants of it for certain purposes, namely, *for the necessary defence and support of the government of the said province, and the protection and preservation of its inhabitants*: whereas in the commissions to the governours of the royal provinces there is no clause that expressly impowers them, with the consent of their councils and assemblies, to raise money upon the inhabitants of those provinces for any purpose whatsoever, but only a power of making laws and ordinances for the good government of the province, which, by a mere implication, (countenanced by another clause concerning the disposal of the monies that shall be raised in them, and supported by a long usage built upon it,) is supposed to contain in it the power of raising money on the people for the support of the governments of those provinces, and for no other purposes whatsoever. Surely such a commission can never be thought by impartial people to be an exclusion of the parliament of Great-Britain from exercising the power of laying taxes on

the inhabitants of those provinces, if upon other grounds the parliament is legally intitled to such a power.

FRENCHMAN.

I see plainly, that the king's commissions are by no means favourable to the claim of the Americans to be exempt from parliamentary taxation, and that the provinces governed under these commissions, (which, I think, you some time ago called *Royal governments*,) have as little pretence, from the words of them, to demand such an exemption, as the charter-governments have to demand it in consequence of the privileges of their charters; or, (if there is any difference between them,) they have rather less pretence to demand such an exemption than those charter-governments. Yet, methinks, that, though neither the charters nor commissions, under which the American provinces are governed, do, in their natural and true construction, convey to the inhabitants of those provinces an exemption from parliamentary taxation, yet, if, during the course of fourscore, or an hundred, years, they have been supposed, though falsely, to have conveyed to them such an exemption; and, in pursuance

Of the usage with respect to the taxation of the American colonies.

pursuance of such a mistaken interpretation of
 them, the Americans have been permitted to
 raise money by their respective assemblies upon
 the people for all sorts of purposes, (as well
 those for which their charters do not empower
 them to raise money, as those for which they do
 empower them to raise it,) and the parliament
 of Great-Britain has always forbore to raise
 money upon them for any purpose whatsoever
 during so long a course of years ; I say, if this
 is the case, I should think it somewhat harsh,
 if not unjust, in the parliament, (after so long
 a forbearance of the exercise of its own right to
 tax them, and a tacit acquiescence in the exer-
 cise of a supposed right in the Americans to tax
 themselves in all cases,) to break through this in-
 dulent usage and begin a practice of taxing them
 by act of parliament. I should therefore be glad
 to know how the usage has been in that respect.

ENGLISHMAN.

You touch upon a string much more fa-
 vourable to the pretensions of the Americans
 than any of the clauses that are to be found in
 the charters or commissions, under which they
 have been governed. But the fact is not in-
 tirely as you suppose it. For the Americans,

I believe,

I believe, have not been taxed at all towards the general purposes above-mentioned, such as the support of the king's household, the maintenance of the fleet or the army, the repairs of publick fortresses, and the like, having been thought to be too poor before the end of the late war to contribute towards these expensive establishments. And all the money that has been hitherto raised in the American colonies, I mean, before the late peace, has been raised by their respective assemblies for the use of the colonies in which it has been raised ; agreeably to the power given to them in the charters of Maryland and Massachusets's bay to raise money for such local purposes, and which has been supposed to be contained under the power of making laws and ordinances which is given to the assemblies of Connecticut and Rhode Island by their respective charters, and to the other American provinces by the king's commissions to his governours. When I say that all the money that has been raised in the American provinces before the late peace has been raised by their respective assemblies, I ought to make an exception of duties on goods imported into those provinces. For such duties have in

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a few instances been imposed by the parliament of Great-Britain at different times before the peace, and paid by the Americans in obedience to that authority. But then it is likewise true that these duties have been imposed rather with a view to regulate the trade of America in the manner the British parliament has thought fit, than for the sake of the revenue they have produced, which has been but trifling. It is therefore upon the whole *substantially* true, that no money has been raised upon the people of America before the late peace by the authority of the British parliament, nor by any other authority but that of the assemblies of the several colonies in which it has been raised: and it is likewise true that the money that has been raised in America before that time, has been raised only for the local purposes of the provinces in which it has been raised, and not for the support of the king's civil list, or the maintenance of the army or navy, or fortresses out of the island of Great-Britain, or other general objects of the publick expences of the nation. This is the history of the usage upon this subject, as far as I am acquainted with it; which does not come up quite to what you seem to

have

have conceived it to be, namely, a regular usage of the Americans to tax themselves for all sorts of purposes whatsoever, the general purposes just now mentioned as well as the local purposes of their respective provinces.

FRENCHMAN.

According to this account of the usage that has prevailed upon this subject, I am inclined to think, that the Americans have no more pretence to claim an exemption from parliamentary taxation, for those general purposes you have just now mentioned, from long usage than from either the letter or true meaning of their charters, or the royal commissions under which they are governed; both which we have already examined and found to be insufficient to support such a pretension. But with respect to the local purposes of their respective provinces, I should incline to a different opinion. For, as the charters and commissions empower the assemblies of the several provinces, either expressly or by implication, to raise money in their respective provinces for those local purposes, and they have uniformly been permitted to do so ever since their first establishments

Difference between the imposition of taxes for general purposes and taxes for provincial purposes.

without any interference of the parliament of Great-Britain, or their ever exercising during this long series of years a concurrent jurisdiction with the assemblies in the raising money upon the Americans for those purposes, I cannot but look upon this long forbearance of the British parliament to exercise its authority upon this subject, and their acquiescence in the exercise of this power by the American assemblies, as amounting, in reason and equity, if not in strict law, to a renunciation of its authority of taxing the Americans for these purposes, and a transfer of it to the American assemblies. Don't you enter into the distinction I make between the two cases?

ENGLISHMAN.

I do enter into it very clearly: and I think it very well founded. And I had even thought of it myself before you mentioned it; though it has not been much attended to by the writers on either side of this controversy. The zeal of the writers in support of the authority of Great-Britain has made them insist upon the right of the parliament to tax the Americans in all cases and for all purposes whatsoever.

ever, even for the support of their respective domestick governments : and that of the writers on the American side of the question has made them deny the right of the parliament to tax them in any case, or for any purpose whatsoever, even towards those general expences of the British empire, towards which they have not hitherto been taxed at all, and towards which the charters and the royal commissions do not authorize their assemblies to tax them. But the truth often lies between two extream opinions ; and perhaps it does so in this case. However there is another argument made use of by the Americans in this controversy, (and which they consider as the strongest argument in their favour,) which, if it be a good one, militates equally against the right of the British parliament to tax them for those general purposes above-mentioned, and for the local purposes of their respective governments.

Of the
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gument of
the Ame-
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ation by
the British
parliament

FRENCHMAN.

Pray, what is this favourite argument, this great American Goliath, by which the Americans think they can maintain a total exemption from the authority of the British parliament

ment to tax them in any case whatsoever? I am impatient to hear this great argument: for at present it seems to me that this is carrying their claim to an unreasonable length, and has a great tendency to exempt them from bearing their proportional share of those general burthens of the British empire, which you just now mentioned, and which relate equally to all the dominions of the crown.

ENGLISHMAN.

The want
of elected
representatives in
the parliament of
Great-Britain.

This grand argument is founded on their not having members chosen by themselves to represent them in the parliament of Great-Britain. They say that the right of the members of the British House of Commons to grant the people's money to the crown (for that, as I observed before, is the form in which acts of parliament for raising money on the people are passed,) arises merely from their being the representatives of the people, chosen by them for the purpose of granting money to the crown, for publick uses, in their name, and as their agents and attornies: and consequently that, as they are not chosen by the inhabitants of America, they cannot be considered as their agents

agents and attornies in this respect, and cannot grant away their money. This is the great argument of the Americans against the right of the British parliament to impose taxes on them.

FRENCHMAN.

That maxim that the House of Commons in England grant the people's money only because they are their representatives, or chosen deputies, can hardly, I presume, be true in its full extent. For if it was, only those who had votes in the election of members of parliament would be liable to pay the taxes there imposed, they being the only persons who have actual deputies, or representatives, in the parliament, that have been chosen by themselves. Yet I have always heard that the taxes in England are general, and extend to all the inhabitants of it, the non-electors as well as the electors of members of parliament, and that the former are a very great part of the people. Pray, Is this the case? or are all the men in Great-Britain that are come to the age of majority, (which in England I understand to be the age of twenty-one years,) intitled to vote in the elections of members of parliament?

Of the
non-elect-
ors of
members
of parlia-
ment in
England.

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ENGLISHMAN.

By no means. The non-electors are at least six times as many as the electors. The whole number of people in Great-Britain is supposed to be about six millions. Of these we may well suppose a million and a half to be males above the age of twenty-one years. And the number of persons intitled to vote in the elections of members of parliament in the whole island is only between two and three hundred thousand. Yet all the people are bound to pay the taxes imposed by the parliament, non-electors as well as electors. You are therefore quite right in your observation upon the aforesaid maxim. It certainly is not true in the strict sense of the words, that only those who are represented in parliament by members of their own chusing are liable to be taxed by the authority of parliament; but it must be taken like all other maxims of law or politicks, with a certain reasonable degree of latitude: and then, I think, it must be allowed to be true because all taxes in England are certainly considered as free gifts of the people to the king or great executive magistrate of the state, which

which are made on great and sudden emergencies that have been set forth to them by the king, and have appeared to them to require an extraordinary supply of money for the protection and advantage of the whole community.

FRENCHMAN.

If once we admit of a latitude in the interpretation of this great maxim concerning taxation, and allow that five sixths of the male inhabitants of Great-Britain, who are come to the age of maturity, may be rightfully taxed by a house of commons chosen by the remaining sixth part of those inhabitants, (which I see plainly to be a reasonable, or rather a necessary, manner of understanding it,) it may be difficult perhaps for the Americans to distinguish their condition from that of the large body of non-electors in Great-Britain, and to assign a reason why they should not be subject to the parliament's power of taxation as well as those non-electors. I should be glad to know, what they alledge for themselves in this respect.

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ENGLISHMAN.

Arguments used
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They are a good deal puzzled to get over this difficulty: yet are not without plausible reasons in favour of the distinction they contend for. They readily allow that the maxim above-mentioned concerning the right of taxation must be understood with the latitude we have here given it with respect to the inhabitants of Great-Britain, so as to make the non-electors liable to pay the taxes imposed by act of parliament as well as the electors; since even in their own provinces a similar extension must be given to it in order to make all the inhabitants of them liable to pay the taxes imposed by their assemblies, there being no government, as I believe, in all America of so very popular a constitution as to allow to all the male inhabitants of the age of twenty-one years, who live under it, a right to vote for members of the assembly. This latitude therefore they acknowledge to be reasonable and necessary. But they distinguish their own case from that of the non-electing inhabitants of Great-Britain by the two cir-

stances. In the first place they observe that the non-electing inhabitants of Great-Britain are those who are not possessed of any freehold land, or who have so little as not to be worth taking notice of. And this is certainly true, the law upon this subject being that every man in England who possesses a piece of freehold land either for life or to him and his heirs for ever, that is worth only forty shillings sterling per annum, has a right to vote at the election of a member of parliament for the county in which his land is situated. And besides these freeholders, who vote for the county-members, there are a great number of persons who have no freehold land, but yet have votes for the members of some city or borough, upon some other account, such as their being freemen, or burgesses of those towns, of which many are places of great trade. “ Now, say the Americans, since all your freeholders of land in England have a right to send members to parliament, and a great many other inhabitants of England, (who have no freeholds, but are concerned in trade in some way or other,) have also a right to send members to parliament to represent the towns in which they

Their first argument, derived from their being owners of freehold lands.

reside, it is but just that such of us Americans as are possessed of freehold land in America of the yearly value of forty shillings, and the inhabitants or burgeses of our trading towns (which answer to your parliamentary boroughs in England,) should also have the privilege of sending members to the British parliament to protect and promote our interests in it, as the present members do those of their British constituents. We do not contend that every man in America should have a share in constituting the legislature by which we are to be bound, knowing that to be almost impossible: but we contend that this right should be allowed to those persons in America who are in the same condition and circumstances with those inhabitants of Great-Britain in whom this right is vested. And till this is done, the British parliament must be considered as a foreign legislature with respect to us, and we are not bound in law to pay the taxes which it shall impose upon us." This is the first and principal circumstance by which the Americans distinguish their case from that of the non-electing inhabitants of Great-Britain.

FRENCH

FRENCHMAN.

This way of reasoning seems to me to be rather specious than just ; since it is not a necessary consequence of the king's making grants of new freehold lands in America, that they should be accompanied with all the same conditions and privileges as belong to the old freehold lands in England. They may, as I conceive, be subject to greater quit-rents, or to other burthens not annexed to the old lands, without the least injustice, if the king, who grants them, and the grantees, who accept them from him, agree, at the time they are granted, that they shall be so. And therefore they may be inferiour to the old freehold lands in England with respect to that privilege of voting in the election of members of the British parliament, if it has pleased the king and his grantees to make them so. The only question seems to be what was the intention of the contracting parties at the time of making these grants of freehold land in America ; that is, whether it was their intention that the grantees of those lands should send members to the British parliament, or not ; and, in the latter case,

Remarks
on the said
argument.

case, whether it was their intention that they should be exempt from parliamentary taxation. And I think it is plain from what you mentioned of the charters of several of the provinces, and particularly the charter of Pennsylvania, that there was no intention in any of the said parties either that the freeholders of America should ever send members to the British parliament, or that they should be exempt from paying the taxes imposed by it on account of their not doing so. For none of the charters make the least mention of sending members to the British parliament, nor yet of their being exempt from parliamentary taxation on account of their not sending any: but, on the contrary, the charter of Pennsylvania expressly mentions parliamentary taxation as an exertion of authority to which the inhabitants of that province will still continue liable in all cases, in common with their fellow-subjects that shall be resident in England; and the other charters, by giving the assemblies of their respective provinces only a partial power of taxation for the local purposes of those provinces, seem to have reserved to the parliament of Great-Britain their original and antecedent right of taxing

those

those provinces for the maintenance of the king's household, the fleet and the army, and the other general purposes of the British empire. There seems therefore to be no reason for supposing that it was the intention of either the kings of England, or the original grantees of freehold lands in America, or, in general, of the settlers in America, either that the American freeholders should send members to the British parliament, or that they should be exempt from parliamentary taxation on account of their not sending any. And therefore I am apt to think that they have no right either to send members to parliament, or to be exempt from its power of taxation, arising from their possession of freehold lands, whatever they may have upon other grounds with which I have not yet been made acquainted.

ENGLISHMAN.

I think you conceive of this matter justly. The rights arising from the possession of freehold lands held by grant from the crown can be derived from no other source but the will of the two contracting parties, the grantor and the grantee, at the time of making the contract.

tract. Nor can I see any thing absurd or unjust in making a grant of freehold land unaccompanied with the privilege of voting for a member of parliament, any more than in granting it with that privilege. The whole, in this as in other contracts, depends on the terms of the contract, that is, on the stipulations of the contracting parties. The king might, if he had pleased, have given the English settlers in America no freeholds at all, but only have leased portions of land to them, to be held from three years to three years, so that at the end of every three years the king should have had a right to turn them out of the land, and let it to other persons at new and higher rents. I confess indeed it is hardly possible that this case should ever be realized in North America because uncleared lands in this country are not worth accepting and cultivating upon such precarious terms. But in the rich sugar lands in the West-Indies such a plan might perhaps have been carried into execution, if the king of England had thought proper to pursue it, though I admit that it would have been in every country a narrow and illiberal, and, upon the whole, an impolitick, system. But yet

may well enough suppose it for a moment to have been adopted, for the sake of argument; and in order to illustrate what you have advanced concerning the rights derived from the contracts concerning lands; namely, that they can be only such as the contracting parties have thought fit to make them. I say then; that, if the Americans had accepted lands of the kings of England upon those precarious conditions, of holding them only from three years to three years, and then being obliged either to quit them or renew their leases of them upon such terms as the king should then direct, such a tenure would have been legal and binding upon them as well as the more beneficial tenure by which they now enjoy them. And in that case, as they would not have been freeholders, they could not have distinguished themselves from the non-electing inhabitants of Great-Britain, with respect to the right of voting in the elections of members of parliament, by this first circumstance of holding freehold lands, which, as I said before, they make use of for that purpose. Now, since the king might have granted them the lands of America upon these precarious leases

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of three years, and such leases would have been legal and valid, it seems reasonable to conclude that the king was in like manner at liberty to grant them the same lands as freeholds (or upon certain fixt and unchangeable conditions,) without superadding to their possession of them the privilege of sending members to the British parliament, which belonged to the old freehold lands in England. And this I take to have been really the case with respect to the freehold lands of America.

FRENCHMAN.

This seems to me to be so evidently true, after all that you have said concerning the charters of America, and particularly that of Pensylvania, that I can hardly think that any unprejudiced person can doubt about it. At least I will venture to say that there are few propositions concerning the civil rights of mankind, (in cases where they are not provided for and ascertained by clear and exprefs words, but are to be collected by reasoning and inference from other circumstances,) that are more evident than this is. And therefore I shall lay it down as an acknowledged truth, during the

rest of our discourse upon this subject, that, at the time of granting the several charters in America, there was no intention, either in the king or the American settlers, either that the possessors of freehold land in America should send members to the parliament of Great-Britain, or that they should be exempt from parliamentary taxation on account of their not sending any. And therefore, it appears to me that those possessors of freehold land can have no strict right to send members to the parliament in consequence of the possession of those freeholds, because that would be altering in their own favour the original conditions on which they became possessed of them.

But you said some time ago, that there was another circumstance by which the Americans distinguished their condition from that of the non-electing inhabitants of Great-Britain, so as to ground a claim upon it to be exempted from the obligation of paying the taxes imposed by the British parliament, to which those British non-electors were confessedly subject. Pray, what is this second circumstance?

The second argument used by the Americans to distinguish their case from that of the non-electing inhabitants of Great-Britain.

ENGLISHMAN.

It is their absence from Great-Britain. They say that the non-electing inhabitants of Great-Britain are so intermixed and connected with those who have votes for members of parliament, and even with the members of parliament themselves, that they have no reason to apprehend that they shall ever be made to pay any taxes imposed by the parliament, but those which will equally be levied upon their neighbours that have the privilege of electing members, and the members themselves that are elected:----that therefore they suffer no hardship, or inconvenience, from their want of the privilege of voting for members of parliament and that, if any of them should think they did suffer any inconvenience from that circumstance, it was easy for them to find a remedy for this grievance by purchasing a small piece of freehold land worth only forty shillings a year, which would give them a vote for the members of the county in which it lies;---that forty shillings a year is so very low a qualification, that it is in the power of almost every body to procure it; and that the ex-

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elusion of those who are too poor to procure it
 from the right of voting in elections of mem-
 bers of parliament, is little more than an
 exclusion of those persons to whom taxation
 is almost a matter of indifference on account
 of their want of property to be the object of
 it:---and therefore, say the Americans, the
 non-electing inhabitants of Great-Britain are
 justly liable to pay the taxes imposed by the
 British parliament. " But, say they, it is far
 otherwise with us. We are not intermixed
 with the electors of the British parliament,
 and with the members themselves that are
 elected to it, so as to be taxed by them only
 when they tax themselves, and in the same
 degree; but we are totally separated from them
 by an ocean of 3000 miles in breadth. From
 this separation and immense distance from them,
 it would follow that, if we were liable to be
 taxed by the British parliament, we should be
 taxed by them as a separate body of people,
 and not in common with themselves and the
 other inhabitants of Great-Britain: and the
 same attention to their own interest, which
 makes the members of parliament cautious
 not to impose unnecessary or oppressive taxes
 in

in Great-Britain, where they themselves and their electors would bear a part of the burthen of them, would induce them to lay very heavy taxes on us Americans, (with whom they have no immediate common interests,) in order to exonerate themselves. And thus we should become (if this right of the parliament were once allowed,) the beasts of burthen of the whole British empire, or (as the continental congress expresses it in one of their publick papers,) hewers of wood and drawers of water for our fellow-subjects in Great-Britain. It would therefore be unjust, and consequently is unlawful, for the British parliament to tax us." This is the second circumstance by which the Americans endeavour to distinguish their condition from that of the non-electing inhabitants of Great-Britain. I believe I have stated it as strongly as their own writers do. You will judge what stress ought to be laid upon it in determining the present controversy.

FRENCHMAN.

Remarks
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gument.

It appears to me to be rather an argument of policy, or expedience, than of law, being wholly founded on an apprehension of the abuse

abuse which the parliament might make of the power of imposing taxes on the Americans, if they were allowed to exercise it. The apprehension of the abuse of any civil power is no argument against its legality, even when such apprehension is well-grounded; but is only a ground for endeavouring to make some new regulations of it by which such abuse of it may be prevented. In order to prove the legality or illegality of any power in civil society, we must inquire what was the original compact between the parties by whom, and the parties over whom, it is to be exercised. This compact, whether express or implied, appears to me to be the only rule by which a question of this sort can be decided. If the compact is express, the decision of the question will be the more easy: if it is only implied, it must be collected from a variety of circumstances; such as, 1st, the practice of the parties with respect to the power in question; or, 2^{dly}, their claims at different periods, and the acknowledgement of such claims by the other party, or their silence with respect to them, which may appear to be an acquiescence in them; or, 3^{dly}, the exercise of similar powers
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by the party which claims the power over the other party; or, 4thly, the antecedent condition and relation of the two parties to each other before the case, concerning which the question arises, existed; and other the like circumstances, which tend to discover and ascertain the intention of the contending parties at the time when the case, concerning which the question has arisen, began to exist. For all civil powers are ultimately founded on compacts; and every *question of right* will, if traced to its fountain-head, appear to be in reality *a question of fact*, that is, an inquiry concerning an ancient fact, to wit, the intention of the parties between whom the question arises, or of their ancestors and predecessors, at the time when the case, concerning which it has arisen, began to exist. And every argument that does not tend to clear up and ascertain that ancient matter of fact, is in my opinion foreign to the subject. I therefore consider the last argument of the Americans in support of their claim of an exemption from parliamentary taxation, (which they build upon the danger of the parliament's abusing such a power of taxing them, if it were allowed them,)

as of no manner of weight with respect to the question concerning the right of parliament in this respect: and consequently, if these are all the arguments of the Americans in support of their claim of the exemption aforesaid, I must needs conclude that they are not intitled to it, but that the parliament of Great-Britain has a right to impose taxes on them as well as on the inhabitants of Great-Britain, and especially for the support of the king's household, the army, navy, ordnance, and foreign fortresses, and the like general purposes that relate to the whole British empire, to which their assemblies are not by their charters and commissions authorized to tax the inhabitants of their respective provinces, and to which they have not hitherto been taxed at all. But perhaps I am too hasty in forming this judgement; and the Americans may have some other arguments in support of their claim of this exemption, which you have not yet stated to me; though I do not recollect that you mentioned any other in the beginning of our conversation upon this question, when you enumerated the several grounds upon which they maintained this controversy. If they have any other arguments,

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ments, I beg you would now inform me of them, that I may be thoroughly acquainted with the subject in its whole extent.

ENGLISHMAN.

I know of no arguments that are brought by the Americans in support of their claim to that exemption, but those which we have been examining: and those I have stated as fully and as strongly as I could, that you might know and feel the whole of what they have to offer upon this subject. And I am not sorry to find that you agree with me in thinking that that whole is insufficient to support their claim. We must not however forget the distinction which you some time ago suggested between taxes raised in the American provinces for the defence and support of the provinces in which they are raised, and taxes raised in them for the maintenance of the king's household, the fleet and the army, and other such general purposes that relate to the whole British empire. The former taxes may be lawfully raised by the assemblies of the several provinces by virtue of the charters and commissions under which they are governed, and always have been

A distinction between provincial taxes and taxes rais'd for the general purposes of the British empire.

been so raised, without any interference of the parliament of Great-Britain ; though, perhaps, the said parliament may be supposed, in strictness of law, to have had a concurrent right with those assemblies to impose them : but the latter sort of taxes cannot legally be raised by virtue of those charters and commissions, and, in fact, have not hitherto been raised at all.

The former therefore ought, in point of equity and prudence, (if not of strict law,) to be left to the American assemblies, to be raised by them as heretofore, in pursuance of the powers contained in their charters and commissions ; but the latter ought to be raised by acts of the British parliament, or, at least, may be so raised without any breach either of the charters of the American colonies or of the usage that has prevailed in them upon this subject.

The former ought to be rais'd only by the American assemblies.

FRENCHMAN.

I am glad you agree with me in this distinction, and acknowledge that it would be highly inexpedient, if not unjust, for the British parliament to impose the domestick taxes of the several provinces of America, which have always hitherto been raised by their own assemblies.

Utility of
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vincial
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their re-
spective
provinces.

blies. For this is a matter of great importance, as I conceive, to the welfare and happiness of those colonies, being the principal means they have of securing themselves from the oppression of their governours and other officers of the crown, and of obtaining a redress of the grievances under which they may at any time labour. The governours of provinces are generally men who have no estates in the provinces they go to govern, nor any natural connections with the people of them, that should make them take a hearty concern in their welfare: and they often are persons who have their fortunes to make, having either never had any estate at all even in England, or, if they have had one, having run it out by their luxury and extravagance, after which, by the interest of the noblemen and gentlemen of power in whose company they have spent their fortunes, they are sent to the American provinces, in the important stations of governours, to repair them. Such persons will, in all probability, be greedy of money, and disposed to take the speediest methods of acquiring it: and it is hardly to be doubted that, if there was no check or controul of their authority in the provinces

provinces themselves over which they preside, they would make use of the great powers vested in them by their commissions to exact money from the people in a variety of ways: and complaints to England for redress of such oppressions would be too expensive and tedious to be made by the greater part of those who would have suffered by them; and when made, would often, (either from the difficulty of transmitting across the Atlantick ocean sufficient evidence to support the charges, or by the favour and partiality of the great men before whom they would be brought, who would many of them, perhaps, be old friends and companions of the governour complained of,) meet with no success. But by means of the assemblies of the people and their power of granting or refusing money for the service of the province, such oppressions are properly taken notice of and often meet with due redress; and, if they have been committed by the governours themselves, and have been great and frequent, will be transmitted to the king himself with so much weight by an address of the assembly as to induce his Majesty to remove the governour from his office. And the apprehension

hension of these consequences will deter the officers of government from being guilty of the oppressions that would give occasion to them. Such, I conceive, are the beneficial consequences resulting to the American provinces from the establishment of assemblies of the people in them, and the powers vested in those assemblies of raising money on the inhabitants of them for the purposes of their domestick government: all which would intirely cease, if the parliament of Great-Britain should, (by virtue of its antient and original authority over the first settlers in America,) interfere in this matter, and impose these domestick taxes in the several colonies, instead of leaving them to be raised, as heretofore, by their respective assemblies. But this is no objection to the parliament's imposing those other taxes on the Americans, which relate to the maintenance of the army and navy and the other general purposes of the British empire. These, I should think, might be imposed by that authority with little, or no, danger to the liberties of the Americans, so long as the former were left to their assemblies.

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ENGLISHMAN.

I think so too: and, if I were an inhabitant of one of the English provinces of America, in which assemblies are established, I should not, (if I know my own mind) be at all averse to being taxed by the parliament of Great-Britain to any of those general purposes; I mean, if the taxes required of me were moderate and reasonable and proportional to my fortune: for heavy and unreasonable taxes are always oppressive and odious, and have a tendency to excite a resistance from those who are to pay them, by whatever authority they are imposed. But for a moderate tax laid upon a proper subject, and appropriated, we will say, to the maintenance of the royal navy of Great-Britain, by which our coasts and our trading vessels are protected, I protest I should be very willing to pay it, though imposed by the parliament of Great-Britain in which I had no special, or chosen, representative. And I should be the more ready to submit to such a tax from a sense of the impracticability of collecting a general tax from all the colonies in America by any other method, and of the consequent necessity

Impracticability of raising those taxes in any other way.

necessity of having recourse to the authority of the British parliament for that purpose. For, according to the present constitution of the British government both in the island, or kingdom, of Great-Britain, and in the American provinces, there are but two authorities by which it would be possible to levy such a tax, which are those of the American assemblies and of the British parliament. To levy it by the authority of the several American assemblies would be extremely difficult, if not totally impracticable. For, as it would be a tax that related to a matter in which the American colonies were all concerned, (the support of the royal navy of Great-Britain and the defence of the coasts and trade of America,) it would be just and reasonable that they should all contribute to it: and *that* it is probable so many different assemblies could never be brought to do;---not to mention the former observation of the want of a legal authority in the assemblies, by the charters and commissions of the American provinces, to lay taxes for these general purposes. It can only be levied therefore (if it is to be levied at all) by the authority of the British parliament. The difficulty,

or rather impracticability, of procuring a concurrence of opinion and action between all the different assemblies of the American colonies in any common cause, or concern, was experienced about the beginning of the late war, when the Americans complained of the encroachments made by the French of Canada upon the king's territories on the river Ohio and in other places. No union could be procured among them: but, while one colony raised troops to repel the encroachments of the enemy, another, that was less exposed to danger from them, refused to raise any: and the French gained considerable advantages in the beginning of the war by means of this want of union among the colonies. This was at that time notorious to all the world: and the English Americans themselves had so strong a sense of the dangers they were likely to be exposed to from this circumstance, that, in July, 1754, when a war with France was apprehended, commissioners were appointed by several of the colonies, who met at Albany on Hudson's river in the province of New-York, to form a plan of union for their common defence. The plan they agreed to was,

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in short, this ; “ That a grand council should be formed of members to be chosen by the assemblies of the people in all the English colonies : and that this council, together with a governour-general, to be appointed by the crown, should be impowered to make general laws to raise money in all the colonies for the defence of the whole.” This plan was not approved by the government in England, and so was not carried into execution. But the proposal of it shews the opinion of the Americans themselves to have been at that time, that, in order to lay taxes effectually upon all the colonies towards any general plan of defence, or other object relating to them all, it was necessary to have recourse to the authority of some *one* assembly, or legislature, properly constituted and impowered to exercise so great a trust, and not to depend on the concurrence of the several provincial assemblies. It is only to shew that this was the opinion of the Americans at that time, that I have now mentioned this plan of a grand council, without meaning to give any opinion concerning the plan itself. Whether such a grand council, or the parliament of Great-Britain, is the fitter legislature,

in point of expedience and policy, to be invested with this power of raising these general taxes upon all America, I will not pretend to determine. I will only say that the parliament of Great-Britain subsists already, and has done so for several centuries, as the great legislature of the British nation throughout all the dominions of the crown, without any exception of the English colonies in America, (as we have seen in the course of our examination of the reasons alledged by the Americans in support of their claim to an exemption from its jurisdiction,) and that the aforesaid grand council has not yet been established, and, if it ever should be established, would be a great innovation in the British government;----and that great innovations are always dangerous. But, till such a grand council is established, the parliament of Great-Britain is the only single legislature by which such general taxes can be legally imposed on the Americans, and therefore, in my opinion, is the legislature by which they ought to be imposed.

FRENCHMAN.

I see plainly the necessity of having recourse to some one legislature for the levying of any

general tax that is to be paid by all the colonies of America. And that legislature in the present state of things, without making some new establishment for the purpose, can be no other than the British parliament. And this necessity ought, certainly, to be an additional reason with the Americans, for submitting to its authority with respect to those general taxes, over and above the legal obligation under which they lie to do so, from their inability to make out their claim to an exemption from its jurisdiction. But you some time ago intimated that they pretend to be mightily afraid of being grievously oppressed by taxes laid by the British parliament, if they should ever acknowledge its authority to impose them. Pray, do you imagine there would be any great danger of such oppression?

ENGLISHMAN.

Reasons for thinking that the British parliament, if its right to tax the Americans were acknowledged, would not exercise it oppressively.

I do not think there would be any such danger: and for these reasons. In the first place, though the Americans have no actual representatives in the British parliament, and do not live in the same country with the persons who elect the members of it, as the British

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non-electors do, yet there is a very great community of interests between them and the inhabitants of Great-Britain, arising from their trade, by which a great number of people in Britain, both electors of members of parliament and others, are deeply interested in preventing them from being oppressed. The Americans have the greatest part of their cloathing, and all their arms, and implements of husbandry and the mechanick trades, and other hard-ware, and a variety of other commodities, from Great-Britain, to the amount of some millions of pounds sterling in a year. This employs a considerable number of merchants in England, and a very great number of manufacturers who prepare the goods which are exported to America. All these persons are bound by a regard to their own interest, to use their endeavours to prevent the Americans from being unreasonably burthened with taxes: for, if they should be so burthened, they must in consequence retrench some of their expences, and consequently would buy fewer of the goods which these manufacturers and merchants supply them with; by which means the business and profits of these merchants and manufacturers would

A great part of the inhabitants of Great-Britain have a common interest with the Americans, and would therefore be vigilant to prevent their being oppressed.

would be diminished. It is natural therefore to suppose that these merchants and manufacturers would do every thing in their power to prevent the British parliament from impoverishing their customers, the Americans, by unnecessary or oppressive taxes. And, by the constitution of the British House of Commons, the mercantile part of the nation has a very great influence in it. This connection and community of interests between the Americans and the merchants and manufacturers of Great-Britain affords a security to the Americans against an oppressive taxation by the British parliament, which, (though not quite so great in degree,) is in its nature similar to that of the non-electing inhabitants of Great-Britain: for neither of them can be taxed by parliament without a concomitant taxation, either direct or indirect, of those inhabitants of Great-Britain who have the right of electing members of parliament: in the case of a tax upon the non-electing inhabitants of Britain, the electors pay the same tax as they; and in the case of a tax upon the Americans, the merchants and manufacturers of Britain, who supply them with goods, would be substantially, though indirectly, impoverished

poverished by the tax, by means of the diminution of their business and their profits in consequence of the reduction of expence which the tax would necessarily produce in their American customers. This connection and community of interests with the merchants and manufacturers of Great-Britain would, as I conceive, operate very powerfully in protecting the Americans from being over-burthened by taxes laid by the parliament of Great-Britain, if their authority to do so had been recognized by the Americans in the most explicit terms.

But there is another ground of security to the Americans, which is still stronger than the former: I mean their distance from Great-Britain, and their large and growing numbers, and their capacity, arising from these circumstances, to resist any acts of oppression committed by Great-Britain, whenever they shall feel them. Great-Britain contains, it is said, six millions of people; some say, eight millions: America contains three millions, and is continually increasing in its numbers at a great rate; so that in twenty-five, or thirty, years it will probably contain as many as Great-Britain;

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adly, the Americans are too distant from Great-Britain, and too numerous and powerful, for the British parliament ever to venture to tax them oppressively.

and in fifty or sixty years twice as many. Taxation is always a disagreeable and difficult exertion of authority, though the authority itself be ever so clear and undisputed: and we have seen tumults in England itself in opposition to taxes imposed by act of parliament, without the least pretence of doubt concerning the authority by which they were imposed, but merely through a dislike to the tax itself;----tumults that have risen so high as to cause the tax to be repealed. How difficult then must it have been to Great-Britain to have forced a tax upon the Americans against their will, at the distance of three thousand miles from the center of her strength and authority, and with only a few troops scattered here and there through that extensive country? We may safely say it would have been impossible: and the parliament of Great-Britain must have known that it would be so. Now this consciousness of their inability to enforce the payment of a tax in America against the general bent of the inhabitants would, as I apprehend, have restrained the British parliament from ever attempting to impose any general tax upon the Americans without a scrupulous

scrupulous regard both to equity in the principle and ground of imposing it, and moderation with respect to its quantity. You will observe that I do not place the safety of the Americans in the actual exertion of their strength in opposition to the oppressive taxes that should be imposed on them by the British parliament; (for that, I am aware, is a dismal remedy, which the people may always resort to, and sometimes do resort to, in the worst of governments :) but I place it in the parliament's knowledge that they possess that strength, and their consciousness (arising from that knowledge) of their own inability to enforce the payment of any tax upon them that shall not, by its reasonableness and equity, make its own way amongst them, and dispose them to be ashamed of resisting it. And this reason would have still more weight at present in restraining the parliament from abusing the power of taxing the Americans, if they were to be allowed to exercise it, than it would have had before the present troubles. For, since the resistance of America to the authority of the British parliament has been so strong and so obstinate as hitherto to have baffled all the endeavours of

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Great-Britain to overcome it, and to have already put her to an expence of more money, in the exertions that have been hitherto made in this unhappy contest, than all the taxes that America could pay, if reduced to the most compleat subjection, would be sufficient to make good in the course of many years, it is next to certain that, if the authority of the British parliament to lay taxes on the Americans for the general purposes above-mentioned was to be recognized by the Americans, the parliament would be exceeding cautious in the use of such a power, and would take particular care to impose only such taxes upon them as were likely to be thought reasonable and just by them, and to be paid without a second resistance. These are my reasons for thinking that the Americans would run no risque of being burthened with unreasonable and oppressive taxes by the parliament of Great-Britain, if the right of the parliament to impose them had been ever so explicitly recognized.

FRENCHMAN.

I think there is a good deal of weight in these reasons. And even the distance of the Americans

Americans from Great-Britain (which you have touched upon but slightly) would operate considerably in their favour, independently of the strength which they derive from their great and growing numbers. The old Latin saying may be justly applied on this occasion; *Procul à Jove, procul à fulmine*. No governments exert the same vigorous authority over their distant provinces as over those which are nearer at hand and more within the reach of their executive power. The tyranny of Nero and Domitian was less felt by the inhabitants of Egypt and Syria, (though then compleatly reduced to the form of Roman provinces,) than by the inhabitants of Italy itself. I should therefore be inclined to think with you that the Americans would not run much risque of being oppressively taxed by the British parliament, if they were to acknowledge its authority to tax them. Yet there is a fact which many people alledge as a proof of the contrary; I mean, the duty upon stamp paper, which the British parliament imposed upon the Americans in the year 1765. This, they say, was a most oppressive tax wantonly imposed upon the Americans by the parliament in the very

Of the security of the Americans arising from their distance from Great-Britain.

O the stamp-act in 1765.

first exercise of their pretended authority to tax America. I should be glad to know your opinion concerning this tax; whether, or not, it was oppressive in its quantity, and whether there was any just ground for imposing it.

· ENGLISHMAN.

I am of opinion that that famous duty was both moderate in its quantity and imposed upon a just occasion; as I doubt not you will readily agree with me, when I have stated to you the sum of money it was intended to produce, and the reason of imposing it. They were as follows. Before the last war the whole expence of all North-America to the British government was only £.70,000 sterling per annum. In the course of the war, (which was undertaken solely to preserve the English colonies against the encroachments, or supposed encroachments, of the French on the river Ohio and in Nova Scotia,) Great-Britain spent above an hundred millions of pounds sterling; of which 70 millions remained as a debt upon the nation at the end of the war, the interest of which was about £.2,300,000 a year, which

was a perpetual load upon the revenue of Great-Britain incurred for the defence of America. The American colonies had also exerted themselves in the course of the war, by grants of money for the defence of their respective territories as well as by levies of troops; and I will suppose (for I am not minutely acquainted with this matter, and do not wish to derogate from their merits) to the utmost of their abilities. At last a peace is made; by which all Canada and Florida are ceded for ever to the crown of Great-Britain; the British ministry having insisted, in the course of the negotiations for the peace, on retaining these countries in North-America rather than the islands of Martinico and Guadaloupe, (which were also in our possession, and would have produced a great increase of the public revenue of the nation,) merely with a view to preserve the North-American provinces from all possible danger of being again molested by the French. Having thus obtained cessions of these new provinces of Canada and Florida, it was necessary that the king should keep some troops there to maintain the possession of them. And it was further judged necessary to keep a small
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number of troops at some of the principal trading-posts in the interior, or upper, country of North-America, to protect the merchants who should trade with the Indian savages at those places for their furs, and to watch the motions of those Indians, and prevent their making sudden irruptions into the back settlements of the North-American provinces. All this required an additional expence beyond the £.70,000 per annum which the establishments in America had cost the British nation before the war. This additional expence was £.280,000, the whole expence of the American establishment since the peace amounting to £.350,000. Whether this new establishment was made more expensive than was necessary, as the Americans alledge, or whether it was a reasonable and proper one, I will not pretend to determine. The king and parliament of Great-Britain were the proper judges of this question : and they formed the establishment upon such a footing as to require an annual expence of £.350,000. This was an additional burthen to the public revenue of Great-Britain of £.280,000 per annum, over and above the £.2,300,000 per annum, which is the interest of the new debt of £.70,000,000,

£.70,000,000, contracted in the war: and it was evidently incurred for the protection of the American colonies. Of this sum therefore it seemed reasonable to Mr. George Grenville, (who was the king's minister of state for the department of the public revenue in the year 1764, and who was zealously desirous of serving his country in that capacity, and of lessening, by all the just methods he could think of, the enormous burthens incurred by the nation in the preceding war,) that the American colonies should pay a part, to wit, one hundred thousand pounds, or little more than a third part of the aforesaid addition to the expence of that establishment. And, as this contribution ought in reason and equity to be made by all the colonies in America, because they all received the benefit of the establishment which was to be, in part, supported by it; he thought the most convenient way of imposing it would be to make use of the authority of the British parliament for that purpose; not thinking it probable that all the different assemblies of the provinces in America would concur in raising it, or, if they should be inclined in the main to raise their quotas

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of it, that they would ever agree in settling what those quotas should be. In this opinion he gave notice to the House of Commons in the year 1764, that he should next year propose to their consideration the granting certain stamp-duties to his Majesty, to be levied on their fellow-subjects in America, that should produce the sum of £.100,000 per annum, being about one third part of the additional expence of the American establishment since the conclusion of the war; and that he purposely deferred his motion for imposing these duties on the Americans till the next year, to the end that the colonies might have time to consider of the matter, and to make their option of raising that or some other equivalent tax that they should like better. This notice of an intention to apply to the British parliament for the imposition of a tax upon America, alarmed some of the agents of the American colonies, and occasioned their waiting upon Mr. Grenville separately, to confer with him upon the subject, and their writing about it to their respective colonies. And at the end of the same session of parliament the colony-agents all went to him in a body, to know

know if he still intended to bring in such a bill. He answered, "that he did:" and then repeated to them in form, what he had before said in the House of Commons, as well as to some of them in private, to wit, "That the late war had found us seventy millions, and left us more than one hundred and forty millions, in debt.----That he knew that all men wished not to be taxed: but that, in these unhappy circumstances, it was his duty, as a steward for the publick, to make use of every just means of improving the publick revenue:---That he never meant, however, to charge the colonies with any part of the national debt: but that, besides that publick debt, the nation had incurred a great annual expence in the maintaining of the several new conquests, which we had made during the war, and by which the colonies were so much benefited.----That the American civil and military establishment after the peace of Aix La Chapelle was only £.70,000 per annum: and that it was now increased to £.350,000.----That this was a great additional expence incurred upon an American account: and that he therefore

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“ thought that America ought to contribute
 “ towards it.----That he did not expect that
 “ the colonies should raise the whole of it:
 “ but that he thought they ought to raise some
 “ part of it: and that the stamp-duty was
 “ intended for that purpose.” He added,
 “ That he judged this method of raising the
 “ money to be the easiest and the most equi-
 “ table:----That it was a tax which would
 “ fall only upon people of property;---that it
 “ would be collected by the fewest officers;
 “ and would be equally spread over North-
 “ America and the West-Indies; so that all
 “ would bear their share of the publick burthen.”
 He then went on in these words; “ I am not,
 “ however, set upon this tax. If the Ame-
 “ ricans dislike it, and prefer any other method
 “ of raising the money themselves, I shall be
 “ content. Write therefore to your several
 “ colonies: and, if they chuse any other mode,
 “ I shall be satisfied, provided the money be
 “ but raised.” Such was Mr. Grenville’s
 conversation with the agents of several of the
 American colonies in the year 1764 concern-
 ing the stamp-act which was then intended to
 be passed in the following session, as it is re-

lated by Mr. Mauduit, one of those agents, in a paper which he printed with his name to it in the year 1775. And he declares in this paper that Mr. Edward Mountague, the Master in Chancery, (who in the year 1764 was agent for the province of Virginia, and was present at that meeting of the colony-agents at Mr. Grenville's house,) had read over this paper of Mr. Mauduit, and assented to every particular of it. The agents of the colonies accordingly wrote to their respective assemblies to acquaint them with this intention of Mr. Grenville to move in parliament for a stamp-duty upon America, and with the offer he made at the same time, of forbearing to move for it, if they would raise the same sum of money among themselves by acts of their several assemblies. But they refused to do this: and thereupon the stamp-act was passed by the parliament in the following year 1765. This is, as I believe, the true history of the famous stamp-act. I leave you now to judge for yourself whether there was any thing unjust or oppressive in it.

FRENCHMAN.

I do not conceive how any one can think it either oppressive or unjust; I mean of those who allow the British parliament to have in any case the right of imposing taxes on America, as you and I do for the reasons we have already mentioned, For it is a tax for one of those general purposes that relate equally to all the colonies, to wit, the maintenance of the possession of the new-acquired provinces of Canada and Florida, (which inclose all the rest, and from which, if they were in the hands of enemies, irruptions might be made into them,) and for the protection of the persons concerned in the Indian trade and of the back settlements of all the provinces; and therefore, (according to what we have already observed concerning the charters and commissions under which the Americans are governed,) it could not be legally levied by the several assemblies of the American provinces by virtue of their charters and commissions, the powers of taxation contained in those instruments being not sufficiently extensive: and (which is of more importance), if it could be legally levied by virtue

of those instruments, it would still be impossible in practice to procure it to be levied in that manner, because of the dissensions that would infallibly arise amongst the different colonies concerning the magnitude of the quotas which each of them ought to contribute towards it. It seems to me therefore that it could not be levied at all, according to the present constitution of the British government, if it could not be imposed by the authority of the British parliament: and that, I think, would be very unreasonable, since the establishment, which was to be, in part, supported by it, was so immediately and so highly beneficial to America. I should incline however to be of opinion that, if they had paid this stamp-duty cheerfully, and had acknowledged the right of the British parliament to impose taxes on them, (at least for those general purposes that related to all the colonies, and to which they all ought to contribute,) they would have had a reasonable pretence for asking to be permitted to send members to the parliament as well as the counties and boroughs of Great-Britain itself: and I do not conceive that their distance from Great-Britain would render this at all impracticable,

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now that the navigation and intercourse between the countries is so frequent and regular. And this might probably have made them easy, and removed those apprehensions of being oppressively taxed by Great-Britain, which they now declare they entertain in consequence of their want of special representatives in that great assembly ; ---- though, indeed, I do not conceive their apprehensions of such oppression to be very well founded, (even while they have no such representatives,) for the reasons we have already mentioned. However, if they had desired to have such representatives in the British parliament, in a reasonable number, in order to remove every shadow of inequality or hardship, and to place them intirely on the same footing as their fellow-subjects residing in Great-Britain, I think they ought to have been indulged in their request, and, perhaps, could not decently have been refused it.

ENGLISHMAN.

I am intirely of your opinion. They certainly would have had a very equitable ground for making such a request ; and it could not with any appearance of decency have been
refused

refused them. And this is allowed by the warmest advocates for parliamentary taxation. For Mr. Grenville himself, who brought forward the measure of imposing the stamp-duty upon them, used to declare that he thought it reasonable that they should, if they desired it, send members to the parliament of Great-Britain; though he did not think that their not having hitherto done so rendered the authority of the parliament incompetent to the exercise of the power of taxation over them before this improvement of the constitution of the House of Commons had taken place. Indeed this admission of representatives from the American colonies is the natural, obvious, and constitutional remedy for the inconveniences they would otherwise be subject to from the exercise of the parliament's authority in the business of taxation. It is the very remedy which was applied in a similar case about a hundred years ago with respect to the bishoprick, or county palatine, of Durham in England; and with compleat success, no complaints having been made by the inhabitants of that county upon this subject at any time since. They were before this liable to pay all the taxes imposed

imposed by the English parliament in the same manner as the inhabitants of the other counties of England; and they constantly paid them: and yet they sent no members to the parliament. This they thought a hardship, and represented as such to the parliament, and, upon that ground, desired to be permitted to send members to the parliament. The parliament thought their request reasonable, and granted it: and from that time to this they have sent four members to the English House of Commons, namely, two for the county, or bishoprick, at large, who are chosen by the freeholders of it, and two for the city of Durham, who are chosen by the mayor, aldermen, and freemen of the corporation of that city. This act was passed in the year 1672, which was the twenty-fifth year of the reign of king Charles II. or the thirteenth year after his restoration. The preamble of it is in these words. “ *Whereas the inhabitants of the county palatine of Durham have not hitherto had the liberty and privilege of electing and sending any knights and burgesses to the high court of parliament, although the inhabitants of the said county palatine are liable to all payments, rates, and*
subsidies

subsidies granted by parliament, equally with the inhabitants of other counties, cities and boroughs in this kingdom, (who have their knights and burgeses in the parliament,) and are therefore concerned, equally with others the inhabitants of this kingdom, to have knights and burgeses in the said high court of parliament of their own election, to represent the condition of their county, as the inhabitants of other counties, cities, and boroughs of this kingdom have." This preamble expresses clearly the opinion that prevailed upon this subject in the English parliament and nation, that is, in other words, it expresses the constitution of the English government upon this matter, in the reign of king Charles II. which is the very æra of the English history which we ought to pitch upon in order to ascertain the rights of the American colonists, because it was during this reign that most of their charters were granted, and their governments established or brought into form and order. The more early part of the history of England seems foreign to this inquiry, and tends only to lead us into doubt and perplexity concerning it. This measure, therefore, of permitting the inhabitants of the American

colonies to send members to the British parliament, which you have suggested as the proper remedy for the complaints of the Americans against parliamentary taxation, appears by this great example to be the true, natural, and constitutional remedy for that grievance. And, as you also rightly observed, it would be by no means impracticable by reason of the distance of the two countries from each other, now that the navigation to and from America is so well understood and so constantly practised, and the intercourse with it is so frequent and regular. Indeed the difficulties of that kind, (I mean those that are owing to the distance of the two countries,) have been already actually tried, and found to be trifling, in a case that is exactly similar to that of an election of representatives from America in the British parliament; I mean, in the appointment of agents for the American colonies residing in Great-Britain, to transact their business with the king's majesty, or his ministers of state, or privy-council, or with the two houses of parliament. The distance of these agents from their constituents in America is found to be no impediment to their transacting the business entrusted to them to

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the satisfaction of their constituents, nor to their receiving the necessary instructions and informations concerning the sentiments of the colonies by which they are employed: nor is it found to be necessary that these agents should be perpetually crossing the seas to and from America in order to receive these instructions and informations. The same may therefore well be supposed concerning any representatives which the Americans should be permitted to have in the British House of Commons. They would not be under any necessity of perpetually going backwards and forwards between England and America, any more than these agents; nor would they find any greater difficulty in transacting the business of their constituents *in parliament* than these agents do in transacting the business entrusted to their management *out of parliament*. In short, admit these agents into parliament, with a reasonable increase of their number; and the business is done. So far is it from being (as some people have represented it,) a chimerical, visionary, and impracticable measure on account of the distance of America from Great-Britain.

FRENCHMAN.

I wonder therefore that this measure has never been adopted, since it appears to be both so agreeable to the constitution of the British government, and so easy to put in practice. Has nobody ever thought of it, or proposed it? And, if they have, what has hindered it from being adopted, seeing that, if it were once established, it would put a short and happy end to this whole unfortunate contest?

ENGLISHMAN.

These are questions which I am not very sure that I can answer. However, I will endeavour to give you some satisfaction concerning them.

In answer to your first question I must observe that this method of settling the disputes between Great-Britain and her colonies is by no means new. It has often been mentioned and suggested, and sometimes by men well acquainted both with the British constitution and the nature of the American colonies and the sentiments that prevail amongst them. Many Englishmen and many Americans have thought of it. Mr.

Grenville

Grenville himself, as I observed before, has more than once declared in parliament that he thought such a measure would be reasonable. And Mr. Thomas Pownall, (who was governour of the Massachusetts bay during part of the late war, and who is very well acquainted with the constitutions of that and the other colony-governments, and who also was, as I have hear'd, much esteemed and respected by the people under his government,) has publickly recommended this measure in two books which he has published, (the one eight or nine years ago, the other about two years ago) on the administration of the colonies. And the great Dr. Benjamin Franklyn himself, whose abilities and opinions are so much revered by the Americans, was formerly of the same opinion. As his opinions upon the subjects of the present disputes between Great-Britain and America are justly considered as of the greatest weight, I will read to you, (as I have it at hand,) a part of a letter written by him to Mr. Shirley, the governour of the Massachusetts bay, in the month of December, 1754, upon this very subject, of admitting representatives from the American colonies into the British parliament.

Letter

Letter from Benjamin Franklyn, Esq;
to Governour Shirley, dated, Boston,
December 22, 1754.

S I R,

“ SINCE the conversation your Excellency
“ was pleased to honour me with, on the
“ subject of uniting the colonies more intimately
“ with Great-Britain, by allowing them repre-
“ sentatives in parliament, I have something
“ further considered that matter, and am of
“ opinion, that such an union would be very
“ acceptable to the colonies, provided they had
“ a reasonable number of representatives al-
“ lowed them; and that all the old acts of
“ parliament, restraining the trade, or cramp-
“ ing the manufactures of the colonies, be at
“ the same time repealed; and the British
“ subjects, on this side the water, put, in
“ those respects, on the same footing with
“ those in Great-Britain, ’till the new parlia-
“ ment, *representing the whole*, shall think it
“ for the interest of the whole to re-enact
“ some or all of them.

“ It

“ It is not that I imagine so many repre-
 “ sentatives will be allowed the colonies, as
 “ to have any great weight by their numbers;
 “ but I think there might be sufficient to
 “ occasion those laws to be better and more
 “ impartially considered; and perhaps to over-
 “ come the private interest of a petty corpora-
 “ tion, or of any particular set of artificers or
 “ traders in England; who heretofore seem,
 “ in some instances, to have been more re-
 “ garded than all the colonies, or than was
 “ consistent with the general interest, or best
 “ national good. I think too, that the go-
 “ vernment of the colonies by a parliament,
 “ in which they are fairly represented, would
 “ be vastly more agreeable to the people, than
 “ the method lately attempted to be introduced
 “ by royal instructions, as well as more agree-
 “ able to the nature of an English constitution,
 “ and to English liberty: and that such laws,
 “ as now seem to be hard on the colonies
 “ (when judged by such a parliament for the
 “ best interest of the whole) would be more
 “ chearfully submitted to, and more easily
 “ executed.

“ I should

“ I should hope too, that by such an union,
 “ the people of Great-Britain, and the people
 “ of the colonies, would learn to consider
 “ themselves, not as belonging to different
 “ communities with different interests, but to
 “ one community with one interest ; which, I
 “ imagine, would contribute to strengthen the
 “ whole, and *greatly lessen the danger of future*
 “ *separations.*” *

You see by this very respectable testimony,
 that in the year 1754 this measure, of sending
 members to the British parliament, would in
 all probability have been very agreeable to the
 Americans, and consequently would, if it had
 been then adopted, have prevented all the pre-
 sent disputes. But at that time the British
 nation seemed averse to it : and even now they
 do not seem much inclined to adopt it, not-
 withstanding the alarming height to which the
 disturbances in America have arisen for want
 of some such settlement ; though, perhaps,
 they might now be brought to consent to it, if

* See this whole letter, with another of the late Mr.
 George Grenville on the same subject, in the Appendix
 to Mr. Pownall's second Part of his Administration of the
 Colonies, published in November, 1774.

It was earnestly applied for by the Americans as a certain means of restoring the peace of the empire. But this the Americans now disdain to do; and, in the confidence of their growing strength and numbers, they have even gone so far as to reject the measure itself, before it has been offered them, by declaring in their publick addresses, that they esteem it to be impracticable. So critical are the times and seasons in which new measures of the utmost importance to the state, can be safely and successfully adopted!

FRENCHMAN.

Pray, what are the principal objections made to this proposal by the inhabitants of Great-Britain, whose interest seems to me to require an immediate accommodation with the American colonies upon almost any terms, and much more upon such honourable and advantageous terms as the preservation of the unity of the whole empire by candidly admitting their American fellow-subjects to a reasonable share of the supreme legislative authority?

Of the objections made by the inhabitants of Great Britain to the plan of an American representation.

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ENGLISHMAN.

I cannot well answer this question, the objections of many of them to this measure being founded (as far as I have been able to observe,) on a kind of suspicion and dread of novelty, and a disgust at the thought of mixing with people brought up in a different climate from themselves, and under different modifications of the British government and the protestant religion, though using the same language, and on the like delicate and undecipherable feelings, rather than on any solid arguments against it. However I will mention to you what two of the most eminent English writers upon the subject have publicly alledged against it; I mean Dr. Tucker, the learned dean of Gloucester, (who is a violent enemy to the pretensions of the Americans) and Mr. Edmund Burke, the great orator in the British House of Commons, who, for his uncommon eloquence both in speaking and writing, may well be called the modern Cicero. This ingenious gentleman founds his objections chiefly on the delays that would be necessary in summoning parliaments in order to allow time for the sending the king's

The objections
made by
Mr. Edmund
Burke.

writ

writ of summons across the Atlantick ocean to the American colonies to chuse their representatives, and for the election of the representatives and their passage to England to attend the parliament. The inconveniences arising from this circumstance he represents in a variety of lights, and makes them the subject of his wit and ridicule.

FRENCHMAN.

Pray, what are the inconveniences that he lays so great a stress upon?—If you can recollect them, I beg you would state them; for I cannot conceive any objections to such a measure, arising merely from the distance of the two countries, but what might be easily removed.

ENGLISHMAN.

I think you are quite right in this opinion. And, accordingly, the objections he has made to this measure, are, as you imagine, of such a kind, that a very little contrivance is necessary to remove them. But that contrivance he has not thought fit to use; though it evidently appears from what he has said upon the subject,

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that

that some of the provisions necessary to remove those objections had not escaped his observation. The passage in which he has stated these objections is contained in a pamphlet published in the year 1769, and intituled, "*Observations on a late State of the Nation*," which was written in answer to another celebrated pamphlet, that had been published a little before, with the title of "*The present State of the Nation*," and which was supposed to be written by the advice and direction of the late Mr. George Grenville, and which the author of the *Observations* on it every where considers as Mr. Grenville's work. As both these pamphlets are here at hand in the book you see lying upon that table, I will look out the passages in them both which relate to the present subject, and read them to you, if you are inclined to hear them. They take up but six or seven pages in that octavo volume.

FRENCHMAN.

I shall be much obliged to you for reading them. It will give me great satisfaction to hear what two such men as the late Mr. George Grenville and Mr. Burke have delivered upon

so important a subject;----not to mention the entertainment you have taught me to expect from the wit and vivacity of the latter in his manner of treating it.

ENGLISHMAN.

The passage in the first-written of these pamphlets, called "*The present State of the Nation*," which relates to this subject of American representation, is as follows. "The prodigious extent of the British dominions in America, the rapid increase of the people there, and the great value of their trade, all unite in giving them such a degree of importance in the empire, as requires that more attention should be paid to their concerns, by the supreme legislature, than can be expected from it, so long as the colonies do not elect any of the members of which the House of Commons is composed. It is not to give parliament a right to tax, or make other laws to affect the lives or liberties of the subjects in the colonies, that I propose their sending members to parliament: the authority of that august assembly is not limited by the constitution, to be exercised over those subjects only, by whom the
House

A passage
of a celebrated
pamphlet
in favour
of an American
representation.

House of Commons is chosen. The supreme legislature represents *all* the subjects of the state: "For the legislative is the joint power of every member of the society, given up to that person or that assembly, which is the legislator."* It is only essential to the completion of the legislative power in Great-Britain, that the members of the House of Commons should be commoners, and elected by commoners. The prescribed mode of election may be altered at any time; but this essential principle cannot be changed without dissolving the constitution.

"The number of the electors is, I conceive, become too small in proportion to the whole people, and the present importance of the colonies seems to demand that some among them should be vested with the right of electing; for it is not reasonable or fitting that the right of election for the whole of the elective part of the supreme legislature, should continue restrained to certain inhabitants of Great-Britain, *now*, that so many of the subjects of the realm reside out of Great-Britain. On this principle, and on this principle only, it is, that I think the colonies ought to be allowed to send members to parliament. Diffusing the right of election

* See Locke's Treatise on Government.

election will certainly give each part of the empire a better opportunity of laying open grievances, and obtaining redress, of acquiring benefits, and removing causes of complaint, than they can have while it is confined to such only as reside in Great-Britain. But let it not be imagined, that by increasing the number of the electors, or adding to the members of the House of Commons, any new rights can be given to the legislature, or that the sovereign authority of the legislature can be enlarged over those who were always subjects of the realm; it must always have been absolute and compleat over them, and it is not, therefore, capable of addition or enlargement." This is the passage in favour of American representation, in the pamphlet written by Mr. Grenville, or his friend. Do you see any thing very absurd in it, or that affords much room for ridicule?

FRENCHMAN.

Truly it seems to me to be very rational and judicious. Nor does my dull imagination enable me to conceive in what manner it can be made the object of ridicule. I am therefore impatient to hear the passage in the other pamphlet, in which, you say, this has been done.

ENGLISH-

ENGLISHMAN.

A passage
of another
famous
pamphlet
in answer
to the former.

It has indeed been done, notwithstanding you seem to think it impossible :---and done too with so much success as to indispose a great number of people against the measure of an American representation, and make them conceive it to be visionary and impracticable, though they were formerly inclined to think it reasonable. The first passage in the pamphlet called "*Observations on a late State of the Nation*," in which the foregoing passage of the former pamphlet is remarked on, is in these words. "The second project of this author [that is, the author of the former pamphlet called "*The present State of the Nation*,"] is an addition to our representatives by new American members of parliament. Not that I mean to condemn such speculative enquiries concerning this great object of the national attention. They may tend to clear doubtful points, and possibly may lead, as they have often done, to real improvements. What I object to, is their introduction into a discourse relating to the immediate state of our affairs, and recommending plans of practical government. In this view, I see nothing in them

them but what is usual with the author; an attempt to raise discontent in the people of England, to balance those discontents the measures of his friends had already raised in America." And the second and principal passage is in these words. "Now comes his American representation. Here too, as usual, he takes no notice of any difficulty, nor says any thing to obviate those objections that must naturally arise in the minds of his readers. He throws you his politicks as he does his revenue; do you make something of them if you can. Is not the reader a little astonished at the proposal of an American representation from that quarter? It is proposed merely as a project of speculative improvement; not from the necessity in the case, not to add any thing to the authority of parliament: but that we may afford a greater attention to the concerns of the Americans, and give them a better opportunity of stating their grievances, and of obtaining redress. I am glad to find the author has at length discovered that we have not given a sufficient attention to their concerns, or a proper redress to their grievances. His great friend would once have been exceedingly displeased

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with

with any person, who should have told him, that he did not attend sufficiently to those concerns. He thought he did so, when he regulated the colonies over and over again: he thought he did so, when he formed two general systems of revenue; one of port-duties, and the other of internal taxation. These systems supposed, or ought to suppose, the greatest attention to, and the most detailed information of, all their affairs. However, by contending for the American representation, he seems at last driven virtually to admit, that great caution ought to be used in the exercise of *all* our legislative rights over an object so remote from our eye, and so little connected with our immediate feelings; that in prudence we ought not to be quite so ready with our taxes, until we can secure the desired representation in parliament. Perhaps it may be some time before this hopeful scheme can be brought to perfect maturity; although the author seems to be no-wise aware of any obstructions that lie in the way of it. He talks of his union, just as he does of his taxes and his savings, with as much *sàng froid* and ease, as if his wish and the enjoyment were exactly the same thing. He appears not

to have troubled his head with the infinite difficulty of settling that representation on a fair balance of wealth and numbers throughout the several provinces of America and the West-Indies, under such an infinite variety of circumstances. It costs him nothing to fight with nature, and to conquer the order of Providence, which manifestly opposes itself to the possibility of such a parliamentary union.

“ But let us, to indulge his passion for projects and power, suppose the happy time arrived, when the author comes into the ministry, and is to realize his speculations. The writs are issued for electing members for America and the West-Indies. Some provinces receive them in six weeks, some in ten, some in twenty. A vessel may be lost, and then some provinces may not receive them at all. But let it be, that they all receive them at once, and in the shortest time. A proper space must be given for proclamation and for the election; some weeks at least. But the members are chosen; and, if ships are ready to sail, in about six more they arrive in London. In the mean time the parliament has sat, and business has been far advanced without

American representatives. Nay, by this time, it may happen that the parliament is dissolved, and then the members ship themselves again, to be again elected. The writs may arrive in America, before the poor members of a parliament in which they never sat, can arrive at their several provinces. A new interest is formed, and they find other members are chosen whilst they are on the high seas. But, if the writs and members arrive together, here is at best a new trial of skill amongst the candidates, after one set of them have well aired themselves with their two voyages of 6000 miles.

“ However, in order to facilitate every thing to the author, we will suppose them all once more elected, and steering again to Old England, with a good heart, and a fair westerly wind in their stern. On their arrival, they find all in a hurry and bustle; in and out; condolence and congratulation; the crown is demitted. Another parliament is to be called. Away back to America again on a fourth voyage, and to a third election. Does the author mean to make our kings as immortal in their personal as in their politic character? or, whilst he bountifully adds to their life, will he take from them their prerogative

rogative of dissolving parliaments, in favour of the American union? or are the American representatives to be perpetual, and to feel neither demises of the crown, nor dissolutions of parliament?

“ But these things may be granted to him, without bringing him much nearer to his point. What does he think of re-election? is the American member the only one who is not to take a place, or the only one to be exempted from the ceremony of re-election? How will this great politician preserve the rights of electors, the fairness of returns, and the privilege of the House of Commons, as the sole judge of such contests? It would undoubtedly be a glorious sight to have eight or ten petitions, or double returns, from Boston and Barbadoes, from Philadelphia and Jamaica, the members returned, and the petitioners, with all their train of attorneys, solicitors, mayors, select-men, provost-marshals, and about five hundred or a thousand witnesses, come to the bar of the House of Commons. Possibly we might be interrupted in the enjoyment of this pleasing spectacle, if a war should break out, and our constitutional fleet, loaded with members of parliament, returning

turning officers, petitioners, and witnesses, the electors and elected, should become a prize to the French or Spaniards, and be conveyed to Carthagena or to La Vera Cruz, and from thence perhaps to Mexico or Lima, there to remain until a cartel for members of parliament can be settled, or until the war is ended.

“ In truth, the author has little studied this business; or he might have known, that some of the most considerable provinces of America, such for instance as Connecticut and Massachusetts Bay, have not in each of them two men who can afford, at a distance from their estates, to spend a thousand pounds a year. How can these provinces be represented at Westminster? If their province pays them, they are American agents, with salaries, and not independent members of parliament. It is true, that formerly in England members had salaries from their constituents; but they all had salaries, and were all, in this way, upon a par. If these American representatives have no salaries, then they must add to the list of our pensioners and dependants at court, or they must starve. There is no alternative.

“ Enough

“ Enough of this visionary union ; in which much extravagance appears without any fancy, and the judgement is shocked without any thing to refresh the imagination. It looks as if the author had dropped down from the moon, without any knowledge of the general nature of this globe, of the general nature of its inhabitants, without the least acquaintance with the affairs of this country. Governour Pownall has handled the same subject. To do him justice, he treats it upon far more rational principles of speculation, and much more like a man of business. He thinks (erroneously, I conceive ; but he does think) that our legislative rights are incomplete without such a representation. It is no wonder, therefore, that he endeavours by every means to obtain it. Not like our author, who is always on velvet, he is aware of some difficulties ; and he proposes some solutions. But nature is too hard for both these authors ; and America is, and ever will be, without actual representation in the House of Commons ; nor will any minister be wild enough even to propose such a representation in parliament ; however he may chuse to throw out that project, together with others equally far from
his

his real opinions and remote from his designs, merely to fall in with the different views, and captivate the affections, of different sorts of men."

This is the whole of what that ingenious writer has alledged in opposition to the measure of an American representation. Are you convinced by it that the measure is impracticable?

FRENCHMAN.

By no means : though I confess I have been much entertained by the lively manner in which the author treats the subject, and the odd circumstances of distress and disappointment in which he has contrived to throw the new American representatives which his antagonist had proposed to admit into the British parliament. The picture of a French privateer intercepting a cargo of American legislators in time of war is particularly diverting, as well as their disappointment, upon other occasions, at finding, upon their first landing in England, that the parliament they were summoned to attend is at an end by a sudden and capricious dissolution, or by the unexpected death of the king. But these misfortunes are extremely improbable, or
rather

rather almost impossible, and therefore are no real objections to, the plan. And, even if they were likely to happen upon the author's supposition of an exact resemblance between the manner and times of electing the American members and those of electing the members chosen in Great-Britain, yet it would be easy to provide against them by varying the times and manner of the elections in America in a few circumstances that would no way affect the freedom and independency of the British House of Commons, or diminish its utility. For example, instead of sending the king's writ of summons, across the Atlantick ocean, to the several colonies in America to elect members to a new parliament, his Majesty might give his American colonies a *general* power of chusing their members every year on a certain day appointed for that purpose; and the members then chosen, if they were resident in America at the time of their election, might be ordered to repair to England immediately after to attend such parliament, or parliaments, as should be assembled in England during the year for which they had been chosen, without being liable to have their seats made void either by a dissolution of the parliament or

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by the king's death. This provision would avoid all the pretended difficulties arising from the length of time that would be necessary to send the king's writ across the Atlantick ocean, and for the subsequent election, and the return of it to the parliament, with the members elected in pursuance of it. For by this means the king's writ would never be sent to America, though the elections in England and Scotland might be carried on in pursuance of such writs in the usual manner. And the other objections stated by this author might, I dare say, be as easily removed by some other provisions of the same kind.

ENGLISHMAN.

I am intirely of your opinion, that the other objections above-mentioned to this measure of an American representation might be removed by some such easy precautions as those you have above proposed, which I intirely approve. Indeed I am so much pleased with your notion of chusing the Americans every year on a given day without the formality of the king's writ that I could wish it were adopted in Great Britain itself, where it could be attended, in my

opinion

opinion, with none but the most salutary consequences. But that is an improvement of the constitution of that country which, for reasons too long to be entered into at present, there is not the least ground to hope for. But those reasons do not relate to America, or at least, not so strongly as to Great-Britain: and therefore I should imagine a provision of this kind might be readily adopted with respect to the American colonies, supposing this measure of an American representation was ever to be seriously undertaken. And, if it were adopted, I should suppose that some day in the middle of summer, (as for example, Midsummer-day itself, that is, the twenty-fourth of June, or the first of July, or the first of August,) would be the most proper for these American elections; because that is the season of the year during which the English parliament is almost always in a state of suspension and recess from publick business, which seldom begins before the middle of November, and often not till towards the end of January. Now, if the American members were to be elected on the twenty-fourth day of June, or the first of July, in every year, or even as late as the first of August, it is morally certain

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that

that they themselves, if they were in America at the time of their election, or, if they were then in England, their commissions to be the representatives of the colonies that had chosen them, or the instruments (whatever might be the form of them,) whereby their elections to parliament would be authentically notified, might always be in England before the first of the November, or rather of the October, following. And, to guard against the accidents to which voyages by sea are always liable, there might be two or three original draughts of the said commissions, or instruments, all executed in the same manner, and consequently of equal authenticity, sent over to England at the same time by different ships, so that, if one or two of them were lost at sea, or taken by an enemy, yet another might still arrive in England in due time of sufficient validity to authorize the person mentioned in it to take his seat in parliament. As for the members themselves, they would probably for the most part be resident in England, at least after their first election to the office, (as the agents for the American colonies have usually been,) and, if they gave satisfaction to their constituents, would be chosen over and

over

over again by their respective colonies in their absence. And thus the dreadful danger of the French privateer that might intercept a whole fleet of these representatives in their passage to England, which was painted in such lively colours by this witty writer, would be avoided.

And further, to prevent the possibility of America's being left without representatives in parliament by any supposed accidents, however improbable, arising from the uncertainty of winds and waves, it might be proper, if no new commissions came over at the usual time from the colonies for which the American members were chosen, to let them continue to sit in parliament beyond the year for which they had been chosen, and till such new commissions should arrive.

The provision you have suggested to avoid the inconveniences arising from sudden dissolutions of the parliament, or the unexpected demise of the crown, namely, that the seats of the American representatives should not be vacated by these events, but only suspended till the meeting of another parliament, seems to have occurred to this ingenious writer, but, in
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the heat of controversy, to have been disapproved by him. For he asks, with a sort of triumphant indignation, "whether the American representatives are to be perpetual, and "to feel neither demises of the crown, nor "dissolutions of parliament," as if the very stating such a proposal were a sufficient proof of its absurdity. But it is probable he would have considered this as less absurd if he had thought of the other part of the provision you suggested, namely, that the American representatives were to be chosen anew every year. For this renders this new privilege, of retaining their right to sit in the next parliament without a re-election, a matter of very little consequence. And for this reason they ought likewise to be permitted to retain their seats in parliament after taking a place, as well as upon a dissolution of the parliament, or a demise of the crown. For, if their constituents were displeased at their conduct in so doing, they might chuse another person in their stead in the following summer. The permitting a member whose conduct had not answered their expectations, to retain his seat in parliament for only one year, could not do them any material prejudice, nor give them much cause of offence.

Indeed

Indeed this provision, of chusing the members anew every year, would have very extensive good effects. Amongst others, it would keep the American representatives in a perpetual state of dependance upon their constituents, and thereby oblige them to consult their welfare and conform in a good measure to their inclinations, instead of sacrificing their interests to the ministers of state for the time being, in exchange for places or other emoluments for themselves. This sort of treachery in the members that would be chosen into the British parliament to represent the American colonies, in case an American representation were to take place, is what, I know, the Americans are very much afraid of, and is considered by them as a strong objection to the measure. Sir Francis Bernard, who was for many years governour of the province of the Massachusetts Bay, says in his 13th letter dated from Boston (where he then resided as governour,) in January, 1768, (which he himself afterwards published in London in the year 1774,) that it has been a serious objection in his province to the measure of an American representation, "*that the American representatives would be subject to undue influence.*"

influence." And he relates in the same letter a sarcastick speech of an old member of the assembly of that province (whose name and character, he says, were well known in England) made in the assembly upon the mention of this measure of an American representation, which was a proof of his sense of the force of this objection. This old member said to the assembly, "*that, as they were determined to have representatives, he begged leave to recommend to them a merchant who would undertake to carry their representatives to England for half what they would sell for when they arrived there.*" But this apprehension is greatly diminished, and almost annihilated, by the provision you have suggested of chusing these representatives every year.

FRENCHMAN.

I think this proposal, of chusing the American members every year on a fixt day, with the other provisions that have been mentioned, would compleatly avoid the objections of this eloquent writer to the measure of an American representation arising from the delay of sending the king's writ of summons to America, and waiting the return of it to Great-Britain, and
from

from the dangers of the necessary sea-voyages, and from the accidents of an unexpected dissolution of the parliament, or the demise of the crown, and even the much more substantial objections of the Americans themselves arising from the danger of their members being seduced by emoluments received from the court to betray the interests of their constituents. But there is another difficulty or two suggested by this ingenious author, in the passage you just now read to me, which we have not yet considered. Now, as he is a person of such eminent abilities and so distinguished a reputation, I should be glad you would give me your opinion upon those difficulties as well as the former, that I may see whether they are any thing more than, what I suspect them to be, a splendid, but harmless, meteor raised by the heat of his powerful imagination and eloquence.

ENGLISHMAN.

Pray, what are these difficulties? for I do not immediately recollect them.

FRENCHMAN.

One of them is the difficulty of determining contested elections. He asks, *how it will be*
 E e *possible*

possible to preserve the rights of electors, the fairness of returns and the privilege of the House of Commons as the sole judge of such contests. And he then adopts these words. "It would undoubtedly be a glorious sight to have eight or ten petitions, or double returns, from Boston and Barbadoes, from Philadelphia and Jamaica, the members returned, and the petitioners with all their train of attornies, sollicitors, mayors, selectmen, provost-marshals, and about five hundred or a thousand witnesses, come to the bar of the House of Commons." Could you not find some way of avoiding this formidable difficulty, or rather army of difficulties, which this author thus marshals in array of battle against our proposal?

ENGLISHMAN.

There is nothing more easy than to get rid of this difficulty upon the supposition of an annual election of American representatives in the manner you have advised. For then we may observe, in the first place, that it would be a matter of no great importance whether contested elections were rightly determined or not. The contested elections are always a very small number in comparison with those concerning which

which there is no contest. And it would little affect the interests of either Great-Britain or America, if, out of fourscore members (for that is the number which I think it would be reasonable to allow the American colonies, including the West-India islands, to return to the British House of Commons, if this measure of an American representation were to take place,) five or six were to retain their seats in parliament for one year only, though they had been chosen by only a minority of their constituents, and had been falsely returned, by the officers who presided at the elections, to have been chosen by the majority : so that it would be a safe, as well as an easy, practice, upon the supposition of these annual elections, to admit at once the member that was returned, without any inquiry before the House of Commons into the merits of the election. And in the case of a double return, some equally summary, and even arbitrary, method might be taken to determine which of the two members should keep his seat, without any material prejudice to the interest of the publick, because of the shortness of the time for which the election would have been made. As to the private injury done to

the person who would have been unjustly excluded from his seat in parliament by the misconduct of the returning officer, that might be compensated in the same manner as all other private injuries, to wit, by an action on the case for damages against the returning officer or other persons by whom the injury had been committed. And thus your provision, of having these elections renewed every year, would render these election-difficulties of little or no importance to the publick, and consequently make the fair determination of them become unnecessary.

But, secondly, this provision of yours would probably have a still better effect. For it would *prevent* these difficulties. There would be no false returns, nor double returns, nor any irregular proceedings, or jockeyship, used at these elections, so long as the members were to be chosen only for a year. It would not be worth the while of either the candidates or the returning officers to incur the odium, or expose themselves to the penalties, that always attend such practices, for the chance of a seat in the British House of Commons for only one year.

And

And, thirdly, the method in which, I apprehend, these American representatives would be chosen, would intirely preclude all possibility of these false or double returns, or other difficulties concerning their elections. For they would be chosen, I presume, (at least I think they ought to be so,) by the assemblies of the several colonies: and the members of every assembly, when they voted for one of these representatives, should sign a commission, or rather, (as we observed before,) two or three draughts of a commission, empowering him to represent them in the British House of Commons for the space of one year and for such further time as should elapse before another such commission should be received in England. And the speaker of the house of assembly, and the secretary of the province, or some other publick officer, or officers, of note in the province, should attest the signatures to the commission, or declare that they saw the members of the assembly make them. And no representative should be deemed to be elected unless his commission had been signed by a majority, not only of the members of the assembly present at the election, but of all the members of which the assembly is composed.

posed. By this manner of electing these representatives I presume it would be next to impossible that any contests concerning the elections should arise. So that I think we have sufficiently answered this objection of the ingenious writer, which is grounded on the difficulty of determining the elections that might happen to be contested.

But, I think, you hinted at another objection started by this author to this plan of an American representation. Pray, let us now consider it, that nothing that has been alledged by a gentleman of such eminent abilities may be passed over without notice.

FRENCHMAN.

This last objection (for I recollect no other,) is the difficulty of finding proper persons to be representatives for the American colonies in the parliament of Great-Britain. The author says, "*that some of the most considerable provinces in America, as, for instance, Connecticut and Massachusetts Bay, have not in each of them two men who can afford, at a distance from their estates, to spend a thousand pounds a year.*" And thereupon he exclaims, "*How can these provinces be*
represented

represented at Westminster? If their province pays them, they are American agents, with salaries, and not independent members of parliament. It is true, that formerly in England members had salaries from their constituents; but they all had salaries, and were all, in this way, upon a par. If these American representatives have no salaries, then they must add to the list of our pensioners and dependants at court, or they must starve. There is no alternative." What say you to this difficulty? which, I must own, does not appear to me to deserve so much stress as the author lays on it. For I should imagine it would be far from difficult to find a sufficient number of very fit persons who would be willing to represent the American colonies in parliament.

ENGLISHMAN.

I intirely agree with you that it would be by no means difficult to find such persons, even upon a supposition that they were to receive no salaries from their constituents. But upon this head I differ totally from this writer. For I should wish that they might receive salaries from the colonies for which they served;—and handsome ones too,—not less than £.1000 sterling

ling a year, if their constituents could afford to allow them so much :----and for this plain reason, that they might not be under a temptation to accept emoluments from another quarter. I see nothing dishonourable, nor dangerous to the publick welfare, in their being in this manner dependant on their constituents from the obligation of gratitude, any more than in their dependance on them, in the manner above-mentioned, from a motive of a different kind by means of the annual return of their elections. Both circumstances would conspire to keep the connection between them and their constituents as close as possible, which otherwise, from the distance at which they would be removed from each other, might be in danger of being relaxed. And it is remarkable that the man who most distinguished himself in the long parliament of king Charles II. as an inflexibly honest man and a faithful and diligent member of parliament, I mean Andrew Marvell, the member for Kingston upon Hull in Yorkshire, received his wages from his constituents during the whole time; and was the only man in the whole parliament who did so. He served his constituents with punctuality and affection, and constantly

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wrote them an account of the principal proceedings in parliament, and of the part he had taken in them : and they on their part had a strong sense of his fidelity and diligence in their service, and the general integrity of his character : so that their conduct with respect to each other is become almost proverbially a pattern of the connection which ought to subsist between an upright member of parliament and his constituents.

But it may perhaps be further objected, that it would be too great a burthen of expence upon many of the colonies, especially the northern ones, to pay their representatives in parliament such wages or salaries as would be necessary to induce them to undertake the office, and to enable them to maintain a decent appearance in England while they resided there in the discharge of it ; which could not well be less, as I above remarked, than £.1000 sterling a year to each representative.

Now, in answer to this objection, 'it may be observed in the first place, that many of the American provinces, as, for instance, the West-

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India islands, the Carolinas, Virginia, Maryland, and Pennsylvania, could well enough afford this expence of a few thousand pounds a year to reward the services of their representatives. And, if they could afford it, it would certainly be money extremely well laid out, and would be returned to them with advantage by the zeal and activity with which their interests would be supported in parliament.

And, secondly, as to those colonies which could not well afford such an expence, it may be answered, that they could easily find persons who would undertake the honourable employment without any pecuniary recompence.

I know it will here be said, and with truth, (as it has been by the eloquent author above-mentioned) that there is not on the continent of North-America, or at least in the northern half of it, an order of gentry, as in Old England, that is, of persons of liberal education and easy patrimonial fortunes sufficient to enable them to undertake honourable offices for the service of their country without any pecuniary advantage;---that the richest people among them

them are their merchants, who cannot neglect their trade without running the risque of being ruined;---that their landholders, though many of them own large tracts of land of thirty or forty thousand acres, yet are either forced to keep their land in their own hands, and cultivate it by negroe slaves, which requires their own continual presence and superintendance; or, if they let it to tenants, to let it at such very low rates, that they are unable to undertake so expensive an employment as that of a commissioner to the British parliament without a salary;---and therefore that these colonies will not be able to procure such commissioners

But to this it may be answered, in the first place, that in some of those colonies there is an order of gentry very evidently rising up, that in a couple of generations will produce a considerable number of persons of sufficient patrimonial fortunes for the purpose here mentioned; more especially in the provinces of New York and New Jersey, where the English law of inheritance by primogeniture takes place.

And, secondly, supposing that there neither now is, nor ever will be in time to come, in the colonies themselves a sufficient number of persons able and willing to undertake these employments gratis, yet there are numbers of gentlemen in England who would be glad to undertake them, and would esteem themselves highly honoured by the colonies which should think fit to chuse them; and many of these gentlemen might be as fit for these employments, and as likely to serve their constituents with zeal and fidelity, as the natives of America themselves. Three sorts of persons occur to me upon this occasion as likely to answer this description.

The first sort consists of such persons as have been governours, or lieutenant-governours, or chief justices, or commanders of garrisons or of regiments, or officers of the Crown in any other office of trust or importance, and who have gained the confidence and good opinion of the inhabitants of the colonies in which they have served during their continuance in these offices, but are since returned to England to spend the remainder of their days in their native country

country. These gentlemen would be well acquainted with the circumstances of the colonies they had belonged to, their constitutions, genius, laws, and trade, and would be the most able and intelligent commissioners in parliament that they could chuse: and it may well be supposed that they would likewise retain an affection for the people amongst whom they had spent a considerable part of their lives, and from whom they had received so honourable a mark of confidence and esteem.

The second sort consists of the English merchants, residing at London or elsewhere in England, who trade to the several colonies in America. These persons would understand at least the mercantile interests of the colonies they traded to, and would be sincerely concerned for their welfare, with which their own interests would have so close a connection; as was experienced at the time of the repeal of the stamp-act, and for some years after, in the zeal with which the London merchants concerned in the trade to America supported the then claims of the Americans. And there is no doubt that these English merchants would
gladly

gladly undertake the office of commissioners of the colonies, to which they traded, in the British parliament without a salary.

The third set of persons who would, as I conceive, be glad to undertake these employments without a salary, are English gentlemen of independent fortune; who would, as I conjecture, employ part of their wealth in the purchase of landed estates in the American colonies, and would go and reside upon them for a few years, in order to acquire a knowledge of the concerns of the provinces in which they were situated, and recommend themselves to the inhabitants of those provinces as fit persons to represent them in the British parliament. This would be of advantage to the provinces in which these purchases were made, in two respects: first, by the money it would bring into those provinces to make the purchases with, which would quicken trade and industry: and secondly, by promoting a friendly intercourse between the inhabitants of those provinces and those of Great-Britain, when the same persons would often be proprietors of land in both countries, and consequently would have occasion

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to go from the one to the other to inspect the condition of their property, which would doubtless be followed by personal friendships between the residents of both countries and their respective families, and often by inter-marriages; which are grounds and means of union that ought by no means to be disregarded by two remote branches of the same nation that sincerely desire to continue under the same dominion.

From some of these three classes of men residing in Great-Britain, the Americans would always be able to chuse a sufficient number of intelligent and faithful commissioners to represent them in the British parliament.

These are my reasons for thinking that there would be no difficulty in finding a sufficient number of fit persons to represent the American colonies in parliament.

FRENCHMAN.

I think you have made it very plain that such persons might easily be found. And thus we have got rid of all the objections made to the

the measure of an American representation by this celebrated author. But, pray, inform me what are the objections made to it by that other learned writer whom you mentioned some time ago, and whom I think you called Doctor Tucker? For I am curious to know every thing that has been said against a measure that hitherto appears to me to be at once so easily practicable, and so highly beneficial to all parties.

ENGLISHMAN.

Dr. Tucker's objections are grounded singly on his opinion of the ill temper of the Americans, and their indisposition to submit to the authority of the British parliament upon any terms or conditions that can possibly be proposed. In this way of thinking he insists positively that, if the Americans were permitted to send members to the British parliament, and were actually to send them, yet they would still find some pretence or other to refuse to pay obedience to its acts. He therefore thinks that the wisest step Great-Britain can take with respect to the Americans, since she finds it impracticable to govern them, is to turn them

off, and give them full liberty to set up for themselves as independent states, with such forms of government as they themselves shall think fit to adopt.

FRENCHMAN.

This seems to be a hasty way of proceeding, and ought, methinks, to be postponed till some attempts have been made to reconcile the contending parties, either by this, or some other, plan of an union or agreement, and have been found to be ineffectual. The mutual benefits arising to both from their present connection, imperfect as it may be, seem to be too great to be thus peevishly thrown away.

ENGLISHMAN.

I believe most people are of that opinion. But the doctor is a man of a warm temper, and who eagerly pursues what appears to him to be the truth, how different soever it may be from the sentiments of other men. And upon this subject he is confident that he has examined all the other methods of acting which Great-Britain can pursue with respect to the American colonies, and has found them to be

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attended with much greater inconveniences than his plan of a voluntary separation.

FRENCHMAN.

But does he give no reasons in support of his opinion, that the Americans would refuse to pay obedience to the British Parliament, if they themselves had been permitted, and had consented, to send members to it? For, as the experiment has not yet been tried, he can hardly expect to make converts to this opinion, without alledging some plausible arguments in its favour.

ENGLISHMAN.

I do not recollect that he alledges any other circumstance in support of this opinion, besides the uneasy and turbulent conduct of the Americans of late years in opposition to the authority of parliament, with respect to the stamp-act and some other exertions of it over them.

FRENCHMAN.

I cannot think that to be a satisfactory way of reasoning. For, though they have resisted

an authority which they think unlawful and ill-grounded, it does not follow that they would resist an authority which they would have acknowledged to be legal, and in the erection and constitution of which they would have had a share ; which would be the case with the British parliament when they should have sent representatives to sit and vote in it.

ENGLISHMAN.

I agree with you that this reasoning is by no means conclusive : and therefore, notwithstanding the doctor's suggestion, I must still take the liberty to wish, that this experiment had been tried by admitting a competent number of members from the American colonies into the British parliament. But this is what I despair of ever seeing, because (as I observed some time ago) there is a visible disinclination in both the parties, the inhabitants of Great-Britain as well as those of America, to come into such a measure.

FRENCHMAN.

It is much to be lamented, that there should be such a disinclination to adopt what seems

to be the only method of producing a lasting reconciliation between these two great branches of the British empire. Nor is it less a matter of surprise to me, that there should be such a disinclination, when the measure seems to have had the approbation of two such able men of the two opposite parties as the late Mr. Grenville and Dr. Franklin; and when the objections that have been made to it by Dr. Tucker and Mr. Burke appear either to be of little weight, or to be so easily capable of being removed as we have seen. There must surely be some reasons which you have not yet mentioned, that give occasion to this strange aversion.

ENGLISHMAN.

I am inclined to think there are such reasons but what they are, I protest I am unable to inform you, unless they proceed from a sort of mutual jealousy and distrust in the two parties; and, perhaps, on the part of Great Britain, a degree of pride and contempt of the Americans, together with an aversion to, and dread of, making innovations in her constitution and, on the part of America, an apprehension that their interests would be sacrificed to those

those of Britain, not only by means of the corruption of their representatives by the crown, as I observed before, but also by means of the great superiority of the number of the British representatives in the House of Commons above those that would be sent from the American colonies; who, by the largest allowance that has ever been proposed for that purpose by those who have recommended this measure, would not exceed fourscore members for all America, including the West-India islands. But these are mere conjectures, in which it is very possible I may be mistaken, there being no other reasons publickly declared and acknowledged by either of the contending parties, against this measure, besides those which we have already considered, and to which we think we have found sufficient answers.

FRENCHMAN.

There is no arguing against jealousy and distrust; and therefore I shall trouble you no further upon the subject, except only to ask you one question, which occurs to me in consequence of what you last mentioned as an apprehension which would probably be entertain'd
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by the Americans, in case this measure of an American representation were likely to be adopted : I mean, the danger that the American representatives would be over-borne by the superiour number of the representatives chosen for Great-Britain, in all points in which the interests of America were concerned. Now this brings to my mind the case of the Union of Scotland with England by a similar admission of representatives from the former into the parliament of England, or, as it now called, the parliament of Great-Britain, in the beginning of the present century. Pray, are the members for Scotland more than fourscore in number ? and are the interests of Scotland sacrific'd to those of England by means of the much greater number of representatives for England of which the British parliament is composed ? For, if this should be the case, I think it would tend to justify the apprehension you suppose the Americans to entertain upon this subject : but, if otherwise, it ought to have the contrary effect.

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ENGLISHMAN.

Your question is a very proper one ; and the answer to it is both very easy and very favourable to the measure we approve. The number of members sent from Scotland to the British House of Commons is not fourscore, but only forty-five ; and those which are chosen for England and Wales are five hundred and thirteen. And yet it is an indisputable fact, that the interests of Scotland have never been postponed to those of England by the parliament of the united kingdom, nor the least partiality shewn in favour of the latter. On the contrary, the Scots enjoy advantages by the treaty of union above the English. For, though the extent of their country is more than one fourth part of the whole island of Great-Britain, and the number of their people is more than a sixth part of the people on the whole island, and the number of their representatives in the House of Commons is more than one thirteenth part of the whole house, yet they pay less than the fortieth part of the land-tax paid by the whole island. And, though the value of their lands has, during the last thirty years,

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been constantly increasing at a vast rate,—much faster than that of land in England,—yet no endeavour has been made to increase their proportion of this common burthen. And in a great variety of instances the interest of Scotland has been consulted and promoted by the British parliament, since the happy union of the two kingdoms, in a manner that intirely removes all suspicion of partiality to their disadvantage. And no one will pretend to deny that the inhabitants of that part of the island have likewise ever enjoyed, and continue still to enjoy, their full share of the favours of the crown in preferments of various kinds in all parts of the British dominions.

FRENCHMAN.

Since this is the case with respect to Scotland, and forty-five members chosen for that country into the British House of Commons, acting zealously for the good of their constituents and countrymen, have been found, during the space of seventy years which have elapsed since the union of the two kingdoms, to be able to procure such advantages for them, I cannot see upon what grounds the Americans

should

should apprehend that a body of fourscore members, sitting in the same house as representatives of them and the inhabitants of the West-India islands, and made more dependent upon their constituents than the Scotch members are upon theirs, by the necessity of being annually re-elected, would not be able to procure similar advantages for the colonies for which they would be chosen. Surely no good reason can be given for their entertaining such a doubt.

ENGLISHMAN.

I allow that your conclusion seems very fair, and that the Americans ought to reason from the case of Scotland in the same manner that you do. And I may even go further in favour of the measure we are here considering, and affirm, that the experiment has been already tried in some degree with respect to America itself, and that the event has been found to be highly beneficial to it. For, though no members have hitherto been chosen by any of the colonies in America, yet several of the rich proprietors of the West-India islands, who have resided in England, have been elected into par-

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liament for English boroughs ; and, even in this mode of admission, they have been thought to have had sufficient influence in parliament to obtain many important favours for that part of America with which they were connected, so as even to excite the jealousy of their northern neighbours on the continent or North-America : for the latter have often complained of the partiality shewn by the mother-country to the West-India islands in matters relating to the trade of America, and have ascribed it to the very circumstance here mentioned, of their having several of their principal proprietors elected into the British House of Commons. It seems reasonable therefore to conclude, that the admission of a considerable number of representatives, or commissioners, into the House of Commons, regularly chosen by the several colonies themselves, and continually dependant upon them for a re-election the next year, could not fail of being an effectual security to those colonies against any unjust or oppressive proceedings of the parliament of Great-Britain. And yet I am afraid this measure will never be adopted: so general is the disinclination towards it that seems to have taken possession of both the contending parties.

FRENCH

FRENCHMAN.

I must again lament that such an unfortunate and unaccountable prejudice should prevail against so useful a measure. But, since it does prevail, I think the parliament of Great-Britain ought to be very sparing and tender in the use of their authority over the colonies, and, as they are conscious of their own unwillingness to permit the colonies to share in that authority by sending representatives to sit and vote amongst them, to consider the colonies as having made that most just and reasonable request, and having received a refusal of it.

Equity and expedience of exerting the authority of parliament over America in a very sparing and tender manner.

ENGLISHMAN.

I intirely agree with you. Good policy, as well as justice, requires that they should treat the colonies in that manner; and without it I am convinced they will not be able to preserve their authority over them, at least not without the assistance of a large standing army to be constantly kept up amongst them, the expence of which, together with the other inconveni-
ences and dangers attending it, would greatly

Inconveniences that would attend an attempt to govern North-America by means of a standing army.

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over-balance the advantages resulting from such a possession of them.

FRENCHMAN.

Such an attempt would be contrary to the free spirit of the English constitution.

And it would require an army of at least forty thousand men.

Such a possession of America would be quite inconsistent, as I conceive, with the spirit of the English constitution, which, as I have always heard, is founded on general consent and the good-will of the people, and is averse to the use of standing forces, except in time of war and against foreign enemies. And, if we consider the great extent and populousness of North America, it will be evident that it is not a small army that will be sufficient to keep its inhabitants in subjection against their will. I conceive that it would require at least forty thousand men to do so, including the troops kept in this province and in Florida, and in the distant posts in the upper country amongst the Indians. And even with such an army the possession of America by the crown of Great-Britain, against the will of its inhabitants, would become every year more and more precarious, by reason of the great and continual increase of their numbers, which are found to be doubled in every twenty, or five and twenty, years.

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ENGLISHMAN.

Oh! 'tis a most preposterous idea, to think of keeping America in subjection by means of a standing army! and nothing but a spirit of frenzy (such as we see sometimes possess a nation, and hurry it into irretrievable misfortunes) can ever make the parliament of Great-Britain entertain such a design. And the expence of it (if it is possible to carry such an attempt into execution) would most certainly exceed all the advantages which either the trade or the revenue of Great-Britain could receive from such a possession of this continent. It would probably not be less than a million of pounds sterling a year; which would require either a perpetual addition of two shillings in the pound to the land-tax of Great-Britain, according to the present mode of assessing it, or an increase of the other taxes of the kingdom to the same amount, which (considering the numerous and high taxes upon almost every article of consumption and of pleasure already subsisting in England,) would be still more burthensome to the nation than such an increase of the land-tax. I wish the landed gentlemen of England would consider with themselves whether it is worth their while to preserve

The probable expence of keeping such an army in America.

The land-tax must probably be augmented from four to six shillings in the pound.

preserve the Americans in a state of obedience to parliament at the expence of an additional and perpetual land-tax of two shillings in the pound, and thereby to make the augmentation of the land-tax from four to six shillings in the pound become almost a necessary measure. It would cure them of that rage of conquest and dominion over their American fellow-subjects with which (if we may judge by some of the late acts of parliament, and particularly the Boston-charter act and the Quebeck act,) they seem of late to be infected.

FRENCHMAN.

Other difficulties of an attempt to govern North-America by force.

You have only considered the expence of keeping them in subjection, when reduced to the obedience of the parliament, to which now they seem so generally unwilling to submit. But what, think you, will be the expence of reducing them to that obedience, if it is in the power of Great-Britain to reduce them to it? And is it certain that she can so reduce them, if unmolested by foreign nations in the necessary exertions for that purpose? And will the rival nations of France and Spain permit her

to continue unmolested while she is making these exertions? Is it not more probable that they will interfere in the course of them in support of the Americans?

ENGLISHMAN.

You oppress me with this multitude of alarming, but very proper, questions; every one of which suggests a reason against proceeding to so dangerous an undertaking as that of reducing America by force of arms to the compleat obedience of parliament. For, in the first place, when we consider the great expence and difficulty of transporting an army of forty or fifty thousand men across the Atlantick ocean, and maintaining them in a great measure by provisions sent from England and Ireland;—and the great difficulty of subduing a people that are spread over so large a country as North-America, (even supposing them not to have courage enough to meet the British army in the field,) by reason of the opportunity, which its extent will afford to the Americans, of keeping one or more armies on foot in those places and provinces which are out of the reach of the invading

Of the expence of reducing America to obedience by force of arms.

ing army, and of harrassing the latter by destroying the country and lessening the means of their subsistence; and also, when the invading army shall come to be separated into small bodies (in order to take possession of the different posts and countries that will be abandoned to them, and to go into winter-quarters,) by falling upon these small bodies by surprize and with advantage;—and the protraction of the war, which will probably be the effect of these difficulties;—I say, when we consider these and many other circumstances that will tend to make such a war expensive to Great-Britain, we can hardly estimate the whole expence of it, before the Americans are brought to a general submission, at less than twenty-five, or thirty, millions of pounds sterling, which will bring on the English nation the perpetual burthen of another million sterling a year for the interest of it, over and above the million a year above mentioned to be necessary for maintaining the additional standing army that must be kept up amongst them to maintain the superiority so acquired. And thus the retaining America in subjection by force will occasion a burthen on the revenue of Great-Britain of two millions of pounds

This expence will probably not be less than twenty-five, or thirty, millions of pounds sterling; the interest of which is about one million sterling a year for ever.

Therefore the reduction of America to obedience by force of arms, and the retaining it in subjection by the same means, when reduced, will cost Great-Britain two millions of pounds sterling per annum for ever.

pounds sterling *per annum* for ever;—a burthen, which no advantages to be derived from either the trade or the taxes that can be levied in America, will in any degree compensate.

This will be the result of success in this dismal contest. But this is an event that appears to me by no means certain, not even though no foreign powers should interpose in support of the Americans. Indeed, if the Americans should come any thing near to the British troops in courage;—if ten thousand of them shall dare to engage with four or five thousand of the latter in the open field; or if they shall only have sufficient resolution to defend strong entrenchments against them;—I would not scruple to pronounce them invincible by all the force that Britain can send against them. And even, if they should fail in this essential quality of soldiers and patriots, they will still have some chance of succeeding against Great-Britain from the probability that great numbers of the troops that shall be sent against them will desert so disagreeable a service, and either carry arms on their side of the question, or (which is more probable) retire to the interior parts of the

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country,

The attempt to reduce America to obedience by force of arms will probably fail of success.

Probability of a great desertion among the troops that will be sent over by Great-Britain to America for that purpose.

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lish troops.

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man troops.

country, and settle themselves as planters upon such lands as the Americans will undoubtedly offer to bestow on them. For these troops, it is probable, will either be Englishmen or Germans. If Englishmen, they will probably feel some reluctance at making war upon people of the same religion and language with themselves, who are fighting for what they conceive to be their just rights and liberties, tho' perhaps their pretensions have in some respects been carried too far. And as to the Germans, they, it is probable, will be very little concerned about the grounds and merits of the quarrel; but, when they find themselves in Pennsylvania, where no less than 150,000 of their countrymen are happily settled as planters, will think it a more desirable condition to partake with them in the enjoyment of the plenty and happiness of which they will find them possessed, than to employ their valour in destroying it. A desertion of this kind (which seems to me by no means improbable, as soon as the invading army shall have advanced a considerable distance into the country, and be separated into many different bodies,) together with the usual wear and tear of an army (which, without any fighting, is reckoned to consume

consume a fifth part of the troops that compose it every year,) would soon waste away the army sent by Britain, and reduce it to the necessity of acting on the defensive in some single small district of America; which would ultimately bring on a necessity of abandoning the enterprise. And if, to avoid the danger of such a desertion as I have been speaking of, the ministry of Great-Britain should adopt that most unconstitutional measure of arming the Roman-Catholicks of Ireland for this service, it would only increase the animosity and resentment of the protestant colonies in America against Great-Britain, and make an accommodation with them more difficult than before, or rather utterly impracticable, but would not much contribute to the reduction of them. For even these Roman Catholicks would find provinces in America where they would be glad to settle as planters amongst people of their own religion, and others who, though not of their religion, would be perfectly well disposed to give them the full liberty of exercising it without the smallest molestation or inconvenience. In Maryland there are great numbers of people of that religion who are perfectly satisfied with their

Of Roman-
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Irish troops.

condition, though the government is, as I have heard, carried on by the Protestants only, but with the full consent and approbation of the Roman-Catholicks, who think their temporal interests safer in the hands of their Protestant countrymen than they would be in their own. And in Pensylvania the Roman-Catholicks are so far from being persecuted, or oppressed, that they are not so much as excluded from the civil offices of the province; but all who believe in a God, the Supreme Creator of the world, are admissible to them. And no tythes, or other church-dues, are paid in that province to the priests, or ministers, of any religion; but they are all maintained either by the rents of lands bequeathed for that purpose by pious persons of their several persuasions, or by the free and voluntary contributions of their respective congregations, as was the case in Canada in that happy interval (the termination of which you so justly regret,) between the conquest of it by the British arms under the wise and humane Sir Jeffery Amherst, and the late act for regulating the government of Quebeck, which has revived the legal obligation to pay your priests their tythes, under which you lay in the time

of the French government. It can hardly be supposed that the Irish Roman-Catholicks would act with vigour against people who were so disposed towards persons of their religion: but it may rather be presumed that they would be glad to obtain settlements among them, and partake of the benefit of so mild and generous a government. In short, as the Canadians, (who are full as much attached to the Roman-Catholick religion as the Irish Catholicks, and who speak a different language from their neighbours in the English colonies, and were some years ago so much prejudiced against them, and accustomed to consider them as their rivals and natural enemies, and engaged in arms for their destruction,) are now so averse to the thought of being employed by the government to act against the English colonies, notwithstanding the utmost endeavours of their priests to animate them to it; and are even suspected of wishing well to the cause of the Americans in the approaching contest, and of being ready to receive them with open arms in case they should invade this province; I can never be brought to think that an army of Irish Catholicks (if Great-Britain should take the desperate resolution

resolution of employing such an one against the Americans,) would answer the views of those who should employ them in this service. And thus, even though the Americans should prove very deficient in courage, it seems probable that Great-Britain may fail of success in her endeavours to subdue them; which is the most favourable supposition for the cause of Great-Britain that can be made.

Probability
that the
French will
assist the
Americans
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are reduc'd
to obedi-
ence.

But, if we suppose what seems more likely, that the Americans, though they at first may fly before the troops of Britain, by degrees should acquire courage enough to face them, (and courage, you well know, is very much the effect of habit;) and that France should, in the middle of the contest, (when the contending parties shall have been too much exasperated against each other by the mischiefs they shall mutually have inflicted, to leave any chance of an accommodation between them,) take part with America against Britain, (which I consider as an event that is almost certain,) the failure of the latter in her attempt to subdue the colonies will then be beyond a doubt; and the farther disgrace of her arms and ruin of her wealth

wealth and commerce, when America shall be put into the scale against her, will also be but too probable. Such is the tendency of this fatal war which Great-Britain seems now meditating against her colonies.

FRENCHMAN.

The difficulties you have mentioned in the system of governing America by mere force, confirm me in my opinion that such a project is most absurd and ridiculous, and would prove most destructive to Great-Britain if she should be unfortunate enough to adopt it. But this is upon a supposition that the whole continent is united in opposition to her. For, if there should be a considerable party in the principal colonies disposed to acknowledge and support her authority, I should think her prospect of reducing the rest to submission, by sending a body of troops to maintain her authority, would not be a very bad one, even though the discontented party were rather the more numerous. Suppose, for instance, that a third part of the people in every province were well-disposed to Great-Britain, might not these so far counter-act the designs

Inquiry concerning the opinion that has been entertained by some people, that there is a considerable party amongst the Americans well-disposed towards Great-Britain.

designs of the other two thirds, as, with the help of an army of fifteen or twenty thousand men, to suppress any attempts that they might make to rise in arms against the authority of Great-Britain? I should incline to think they might: I should therefore be glad to be informed whether there is any considerable body of people in any of the provinces disposed to support the authority of the mother-country.

ENGLISHMAN.

There is no
such party
amongst
the Americans.

As I have lately been resident in the neighbouring English provinces, I can safely venture to assure you that there is no such party. The Americans are all enemies to the claims and pretensions of Great-Britain: and the only distinction to be made between different parties of them is that of active and passive enemies to those pretensions. The former are inclined to oppose the authority of Great-Britain by force of arms, and are preparing themselves for such a contest: but the latter (amongst whom are the Quakers of Pennsylvania, and several persons of other religious persuasions in many of the provinces, who are possessed of a considerable share of property which they are unwilling to expose

expose to the risks of war, and more especially (several of the merchants in the great trading towns,) wish to avoid so terrible an event, and would rather proceed by petitions and representations, or, perhaps, by combinations not to import goods from Great-Britain, (as on other late occasions,) to obtain satisfaction for their grievances; and, in case these methods should fail of success, would even submit to bear those grievances sooner than have recourse to arms for their removal. But none of them are willing to acknowledge the authority of the British parliament in all its extent, and to assist any army that should be sent to America to support it.

And even these passive enemies of this authority seem to me much fewer in number than the other party who are preparing to rise in arms in opposition to it. So far is it from being true that there is any such considerable party as you spoke of amongst the Americans disposed to controul the efforts of their countrymen in opposition to the claims of the British parliament, and to assist a British army in the maintenance of that authority.

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FRENCH:

FRENCHMAN.

I asked the question more for the sake of information than from any opinion I had formed that there was such a party. For by all the late accounts I had heard of their proceedings, I was rather inclined to think that there was not. Yet I cannot but be surprized that there are so few persons in America disposed to acknowledge the authority of the parliament, when I consider the powerful arguments in support of that authority which you have set forth in the course of this conversation ;---the express words of the charter of Pensylvania ;---the strong implications of other charters ;---the grounds and reason of such authority arising from the nature of colonies, or dependant governments ;---and the constant and undisputed exertions of it for a variety of different purposes, though not for that of internal taxation : for this, I am told, has been the case for more than a hundred years past, and without any complaint of the Americans with respect to the want of authority in the British parliament to make them.

E N G

ENGLISHMAN.

It certainly is as you have heard. The parliament has made a variety of laws concerning America, without the smallest doubt in any of the Americans of their legal authority to make them. It has restrained the trade of the Americans by the act of navigation and several other statutes;—imposed duties upon the importation of sugars and molasses into their ports;—erected a post-office throughout America, with certain rates of money to be paid for the postage of letters; which, by the bye, partakes of the nature of a general internal tax upon its inhabitants;—forbid the Americans to make use of mills for slitting iron, or to carry either woollen manufactures, or hats and felts, from one province to another;—made freehold lands liable to be sold in execution of judgements for debt, in the same manner as moveable goods;—and passed many other acts of great importance relating to the Americans, without any objection on the part of the latter to the insufficiency of their jurisdiction, though they have sometimes complained that the acts themselves were too severe, as, I believe,

The Americans themselves, till within these last ten or twelve years, used to acknowledge the legislative power of the British parliament in its full extent, even with respect to the imposition of internal taxes.

was the case with respect to the act against flitting-mills. Nor did they till of late years dispute the right of the British parliament even to impose internal taxes on them, as appears in a most striking manner from the following passage of a pamphlet written by Mr. Otis, the celebrated lawyer of Boston, who was so active in the year 1765 in encouraging the opposition to the stamp-act. "It is certain that the parliament of Great-Britain hath a just, clear, equitable, and constitutional right, power, and authority to bind the colonies by all acts wherein they are named. Every lawyer, nay, every tyro, knows this. No less certain is it that the parliament of Great-Britain has a just and equitable right, power and authority, *to impose taxes on the colonies, internal and external, on lands as well as on trade.*" This pamphlet was published in that very year 1765, in which the stamp-act passed, but, as I suppose, before the news of its being passed had reached America. The foregoing passage of it is cited from some letters signed *Massachusettensis*, that were published in the news-papers at Boston in the Massachusets Bay in the beginning of this present year, 1775. For I have not seen

Mr.

Mr. Otis's pamphlet itself in which they were originally contained. So that it appears that so lately as ten years ago, the universal authority of the British parliament over the colonies, even in the article of internal taxation, was acknowledged in America by the warmest advocates for public liberty.

FRENCHMAN.

This having been the general opinion of the Americans till within these few years past, I cannot but be surprized at the great revolution that seems to have happened in their sentiments, and should be glad to know the causes that have produced it.

ENGLISHMAN.

It is not easy to account with much exactness for this general change of the publick opinion. However, as I have lately resided in those provinces, and have heard a great deal of conversation upon the subject, I will mention to you all I have observed, or been able to collect from information, concerning it.

An account of the change of opinion amongst the Americans upon this subject of late years.

In the year 1764, during the administration of Mr. George Grenville (whom we have more than

than once had occasion to mention already, an act was passed by the parliament of Great-Britain for regulating the trade of North-America in a stricter manner than had been practised before, and preventing the prodigious quantity of smuggling, or illicit trade, which had taken place in all the ports of the continent until that time; the preceding statutes upon that subject having always been very indulgently, or rather very negligently, executed. And, amongst other checks to the former practices of the traders of America, a stop was put to a certain very beneficial, though illicit, intercourse with the Spaniards of Mexico, by which a great quantity of silver dollars used to be brought into the English provinces. This was a trade which it would better have become a Spanish minister of state than an English one to be active in preventing; and the stopping it has universally been censured as a very impolitick measure, whoever was the occasion of it. For I have heard that Mr. Grenville denied that he had ever given any orders for that purpose, and said it was owing to a mistake of the meaning of the orders which the Board of Admiralty had given to the King's sloops that were employed

in supporting the execution of the custom-house laws, and preventing the illicit trade of America. But, whoever is to be considered as the author of the measure, it is certain that the measure itself (though it was very soon after corrected) had very bad effects, and raised great complaints in America, and, with the other laws then passed for the better execution of the laws of trade and prevention of smuggling, indisposed most of the trading part of it against Great-Britain. Yet, as these laws related only to the regulation of their trade, (which had always been considered as subject to the controul of the British parliament,) they only complained of the severity or inexpedience of them, but did not object to the authority by which they were made. But, while their minds were thus irritated against Great-Britain, they were told from Mr. Grenville that another act would soon be passed by parliament for imposing a stamp-duty upon them to defray a part of the expence of the military establishment in America, unless they should render such a measure unnecessary by raising the same sum of money amongst themselves by grants of their own assemblies. And, agreeably to this declaration of Mr. Grenville,

Of the
stamp-act
in 1765.

ville, the stamp-act was passed in the spring of the following year 1765, they having refused, or neglected, to raise the proposed sums by their own assemblies. This (though you and I are of opinion that it was neither an illegal nor an oppressive measure,) was a measure of a new kind or complexion, to which the Americans had not hitherto been accustomed. It was raising an internal tax upon them, without any view to the regulation of their trade. This therefore afforded a plausible handle to their popular writers and orators to complain of Great-Britain upon a new ground, as claiming and exerting a new kind of authority over them. The claim certainly was not new, though the exertion of such authority was so, Great-Britain having never before either thought the American provinces worth taxing, or had occasion to raise taxes on them. Upon this occasion the attention of the whole body of the people of America was turned (for the first time, probably since the establishment of the colonies,) to the consideration of the relation they stood in to Great-Britain; and they were taught by the writers and popular leaders to believe that, because they did not send representatives to the

British parliament, they were not, with respect to internal taxation, subject to its authority. They confined their claim of exemption to internal taxes, because these were a sort of novelty amongst them, there being no act of the British parliament then in force amongst them, by which any internal tax was levied upon them, except the post-office act, which was but indirectly so. And they thought it would be too great a stride to take, in their first opposition to Great-Britain, to pretend to an exemption from the authority of the parliament upon every subject, when they knew they had lived for an hundred years past in the constant habit of obeying its acts upon a variety of other subjects, and, amongst others, its acts for the imposition of port-duties, or external taxes upon the importation and exportation of goods. They therefore prudently confined their claim of an exemption from the authority of parliament to the single subject of internal taxes, though the circumstance they alledged as the ground of it, to wit, their not having the privilege of sending representatives to it, would have done equally well for a ground of exemption from its authority in every other article, since it is as much

The Americans deny the right of the British parliament to impose internal taxes on them.

the birth-right of an Englishman not to be bound to obey any laws but such as are passed with his own consent, given by himself or his representative (either real or virtual) in the House of Commons, as not to be obliged to pay any taxes but what are granted by himself or his representative in the same manner. This doctrine of the want of authority in the British parliament to impose internal taxes on the Americans, on account of the want of representatives in it chosen by the colonies, seems to have made a very strong and very general impression on the minds of the colonists, and to have been received by them almost as soon as it was proposed, notwithstanding the general opinion that had just before prevailed among them (as appears from the words of Mr. Otis above-recited) that the parliament of Great-Britain had a right to make any sort of laws for the American colonies, as much as for Great-Britain itself. And it seems probable that the general discontents arising from the former acts of the year 1764, already mentioned, together with the love of independency which is natural to the mind of man, (and which in the case of the Americans was heightened by the consciousness

consciousness of their growing strength and numbers) and the general aversion which all people have to laws of taxation, were the motives that secretly influenced them to embrace this new doctrine so eagerly, and to consider the circumstance on which it is grounded, to wit, the want of representatives in the British parliament, as affording so irrefragable a proof of it. But, whether from these or other causes, it is certain that this plausible argument for the want of jurisdiction in the British parliament to impose internal taxes on America, derived from the want of representatives chosen by the colonies, was suddenly, and almost universally, adopted by the Americans upon that occasion, and has ever since been deeply rooted in their minds as a fundamental article of their political belief. This was the first step taken by the Americans towards an exemption from the authority of the British parliament, to which they had hitherto considered themselves as subject without any limitation or exception.

The practices of the Americans on this occasion were agreeable to their new theory. They

The repeal
of the
stamp-act,
in 1766.

universally resisted by force the execution of the stamp-act: and soon after, when the news of this violent opposition to it arrived in England, the British parliament, under the administration of the Marquis of Rockingham, condescended to repeal it. This repeal was, however, obtained with difficulty, having been opposed in both houses of parliament by very great minorities. They said it was a surrender of the authority of parliament over America thus to give way to their forcible opposition to it;--that the duty imposed by the act was neither laid without a just occasion, nor oppressive in its quantity; since it was reasonable that the Americans should contribute something towards the expence of the new military establishment made for their defence, and the sum proposed to be raised by it was only £.100,000 for all America;---and that, as to the right of the parliament to impose it, which the Americans denied, they could not entertain the least shadow of doubt about it, and could not therefore consent to repeal the act while the Americans objected to it upon such a ground, even if they had thought it in other respects expedient to do so. These reasons had weight with a great

part of the nation out of parliament, as well as with the numerous minorities in the two houses. The reasons on the other side, in favour of the repeal, were as follows. In the first place there were some few members of both houses of parliament who adopted the new American principle, "that the British parliament had no right to lay internal taxes on the Americans, because it had no representatives in it chosen by the Americans to concur in the granting them." The members who adopted this opinion were indeed very few, being only six persons in the House of Lords, and about the same number in the House of Commons. But amongst this small number of partisans of this doctrine there were some persons of the greatest weight, from their characters and abilities, in the whole nation; particularly the famous Mr. Pitt, (since made Earl of Chatham,) who had been minister of state in England during the late war, and had gained so much glory and popularity by the spirited and able manner in which he had conducted the operations of it, and the frequent successes that had attended them; the Lord Camden, at that time lord chief justice of the court of Common-Pleas in England, and who had before been the king's attorney-

attorney-general during all Mr. Pitt's ministry, and who had distinguished himself, while he was in both those offices, by his attachment to publick liberty, as well as by his uncommon eloquence and abilities, and his knowledge of the laws and constitution of the English government; and Mr. Serjeant Hewet, a very learned lawyer, of known integrity, and who was at that time one of his Majesty's serjeants, and a member of the House of Commons. These three respectable persons plainly declared themselves to be of the same opinion as the Americans, "that the British parliament had no right to lay taxes on the Americans by reason of their not having representatives in it chosen by themselves to consent to the imposition of them, or rather, according to the language of parliament, to concur in the granting them." This opinion astonished the people of England at first, and made a strong impresson on their minds, from the characters of the persons who advanced it. But it did not, however, prevail so far with them, at that time, as to make many of them become converts to it, from the former universal and deeply-rooted opinion, "that the authority of the King, Lords, and Commons of

Great

Great-Britain, was unlimited and supreme over all the dominions of the crown ;” though since that time I have observed that several persons, and, amongst them, some of considerable eminence, have acceded to it. And even at that time, though this respectable patronage of the new American doctrine did not induce people absolutely to adopt it, yet it made many persons (who were in general well inclined to the authority of parliament,) less tenacious than they would otherwise have been, of the other opinion of the unlimited supremacy of parliament, and less disposed to resent the opposition made by the Americans to the execution of the stamp-act, and to take vigorous measures to enforce an obedience to it. These latter persons, (who were, as I have heard, very numerous,) were disposed to pursue a middle line of conduct. They thought it necessary to assert in the strongest terms the right of parliament both to impose this tax on the Americans, and to exercise every other act of legislative authority over them in the same manner as over the inhabitants of Great-Britain itself; lest, if they did not, the Americans should apply their new principle to the exclusion of the authority of parliament

parliament over them in every other subject as well as that of internal taxation. But at the same time they were willing to forbear the exercise of this authority for the purpose of imposing internal taxes on the Americans; and, as a proof of their willingness to do so, they consented to the repeal of the stamp-act. These seem to have been the sentiments of the Marquis of Rockingham and the numerous party of Whigs, (or antient friends to publick liberty and the succession of the Protestant royal family now on the throne,) of which he was at the head. It was further said in favour of the repeal of this act, that it was uncommercial, inasmuch as by taking away the money of the Americans in the form of taxes, it would render them less able to trade with the mother-country, which was the most beneficial, as well as the most constitutional, way by which the money of America could be brought into Great-Britain. And it was also said, that the Americans could not obey the stamp-act, if they would; because the act required the stamp-duty to be paid in silver and gold coin, and the Americans had not coin enough to pay it. I am inclined to think that neither of these reasons was true: but
however

however, they made an impression on many people at the time, and contributed to the repeal of the act. And to these causes we must add the earnest endeavours of the merchants of England who traded to America, and, I may say, the clamours of the manufacturers of England who supplied the American market with goods, to get the act repealed, in order to their being relieved from the distress they had been suddenly thrown into by the orders which the merchants of America had sent over to their correspondents in England to forbear sending them over any more goods from England. These efforts of the merchants and manufacturers of England had a great effect at that time, and contributed much to the repeal of this famous act; and thereby clearly proved that the Americans have great numbers of people in Great-Britain so connected with them by a community of interests as, from a regard to their own welfare, to be ready to exert themselves in their defence, and prevent any oppressive measures from being taken by the parliament against them, as well as those inhabitants of Great-Britain itself who have no votes in the election of members of parliament. And,

M m perhaps,

perhaps, to these motives for repealing the stamp-act we ought to add the consciousness of an unwillingness in the principal persons of all parties in Great-Britain to permit the Americans to send members to the British House of Commons, and the apprehension that an enforcement of the stamp-act (if it could be enforced,) would produce a request from the Americans to be permitted to send such members, which, in such case, could not, with any appearance of equity, have been refused them. And lastly, the difficulty and expence that seemed likely to attend an endeavour to enforce the act, (seeing that almost all the colonies concurred in resisting it,) must, doubtless, have had considerable weight with the gentlemen then in administration to induce them to the measure of repealing it. Accordingly the act was at last repealed, but with the strongest declarations on the part of the ministers of state, that the reasons for repealing it were reasons of expedience only, and not any concurrence with the new American doctrine that the parliament had no right to pass it; and, to strengthen these declarations, a short act of parliament was passed at the same time, which asserted in the

The declaratory act in 1766, in favour of

the supreme legislative authority of the British parliament over the American colonies.

the plainest and strongest terms the unlimited extent of the legislative authority of the British parliament over all the king's dominions in America.

By this declaratory act the party that passed it supposed they had sufficiently preserved the dignity of the parliament of Great-Britain, and discouraged the new American doctrine of a want of authority in it with respect to America on the subject of internal taxation. But the other party in England, who had opposed the repeal of the stamp-act, and who were almost as numerous as those who passed it, considered it in another light. They said, that the repealing the stamp-act, while the Americans objected to it upon the ground of a want of authority in the British parliament to pass it, and were actually resisting the execution of it by force upon that account, was, substantially, yielding the point to them, and allowing the validity of their objection, and equivalent to a promise never more to exercise the legislative authority complained of; and that passing the act which declared the parliament to have that authority, was only an idle protestation *in words*,

that would have no weight in America in support of that authority when accompanied by an act that so directly contradicted it *in fact and substance* as the repeal of the stamp-act, and that it was, according to a Latin expression at that time frequently cited, *verbis ponere, tollere* the authority of parliament over America. And it is certain the Americans considered in this light, and called the declaratory statute an innocent compliment paid by the British parliament to their own dignity, a *brutum fulmen*, which could do them no harm, as long as the parliament was so complaisant as not to act upon it, (as they had shewn themselves justified before by the repeal of the stamp-act,) and which, they said, they would counter-act by instruments of exactly the same importance, namely, by resolutions of their assemblies that the parliament had no such right. This was the language of the Americans at that time concerning the declaratory statute, though in late years, in their further disputes with Great Britain, they have spoken of it in a more serious style, and complained of it as containing the very abstract and quintessence of injustice and tyranny towards them. The repeal of the stamp

stamp-act had, however, an immediate good effect in America, by restoring the peace and tranquillity of all the colonies.

FRENCHMAN.

This repeal of the stamp-act was certainly a great condescension in Great-Britain, and ought, in my opinion, to have removed all ground of uneasiness between Great-Britain and her colonies. For I must so far agree with the Americans in their interpretation of the conduct of Great-Britain in repealing that act, and at the same time declaring by another act the supreme authority of the British parliament over America, as to consider the repeal as a kind of promise on the part of Great-Britain not to impose any more internal taxes on the Americans until they were permitted to send representatives to parliament, notwithstanding the strong and general terms of the declaratory statute, which I conceive to have been intended rather as a guard against a further extension of the new doctrine of the Americans to other exertions of legislative authority (which seemed much to be apprehended,) than as an intimation of any design of imposing any other internal taxes on.

on them. And if Great-Britain had really laid aside all thoughts of imposing internal taxes on the Americans, I think they had reason to be satisfied, and ought not to have engaged in new disputes with the mother-country. Am I right in my conception of the views of Great-Britain in consenting to the repeal of the stamp-act?

ENGLISHMAN.

Intirely so. The party who procured the repeal of the stamp-act have often declared their intentions to have been precisely what you have mentioned, namely, to impose no more internal taxes on the Americans, but to maintain in all its force the authority of the British parliament over them with respect to all other subjects, and more especially with respect to the regulation of their trade, which was the matter of most importance to Great-Britain. It was with a view to preserve this authority (which, they conceived, the new American doctrine, of a want of power in the parliament arising from a want of American representatives, might be applied to overthrow,) that they passed the declaratory act.

FRENCH-

FRENCHMAN.

After such a concession on the part of Great-Britain as a resignation of the exercise of her authority to lay internal taxes on America, one would have thought that no new disputes could have arisen between the two countries, unless either Great-Britain had again attempted to impose internal taxes on the Americans, or the Americans had refused to obey the authority of Great-Britain with respect to some other subject, as, for example, with respect to the regulation of their trade. Pray, did either of these events take place?

ENGLISHMAN.

Not exactly. But an event of a middle nature betwixt the two did take place on the part of Great-Britain; which gave rise to new disturbances in America. The mild and virtuous ministers of state who had conducted the repeal of the stamp-act, were removed from their offices about four months after, that is, in the month of July, 1766; and Mr. Dowdeswell, who was one of them, was succeeded in his office

Of the new
ministry
appointed
in July,
1766.

office of chancellor of the Exchequer by Mr. Charles Townshend. This gentleman, (whose duty it was, from his said office, to conduct the affairs of the national revenue, and to propose to the House of Commons such new taxes as were thought necessary for the publick service,) seemed resolved to make it one part of his character as a British minister, to be the restorer of the authority of the parliament of Great-Britain over the American subjects of the crown, which he considered as having been greatly lowered and impaired by the late repeal of the stamp-act. In this disposition he publicly declared that he did not expect or desire to have a statue erected to him in America, (alluding to a statue which the Americans had lately set up in honour of Mr. Pitt, as a mark of their gratitude for his services to them in supporting the repeal of the stamp-act;) but should be contented with the merit of having maintained the rights and just authority of his own native country over all its dependent territories. He therefore resolved to go beyond the preceding ministry in asserting this authority, by exerting it for the purpose of imposing taxes on the Americans, instead of simply declaring that the parliament was right-

fully

fully possessed of it. Yet he did not venture to propose the revival of the stamp-duty, which had been so lately taken off, (though it was confessed on all hands, even by the Americans themselves, that that duty was the most judicious and reasonable internal tax that could be imposed upon them,) lest so sudden a change of conduct in the parliament should expose them to the charge of inconstancy: nor did he even venture to propose any other internal tax upon them; but recommended only the imposing some external duties on them, to be paid upon the importation of certain commodities from Great-Britain into the American sea-ports. These duties were accordingly laid in the year 1767 by the parliament upon all the paper and painters colours and tea that should be carried to America. They were, all of them, very moderate in point of quantity; and that on tea, in particular, was remarkably low, being only three-pence sterling upon every pound of tea. And, to facilitate the payment of this last very small duty, the parliament took off a duty (paid in England) of a shilling upon every pound of tea exported from England, which had been imposed by some former act, so that

New duties imposed by the British parliament in 1767 on paper and painters colours and tea imported into America.

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the tea imported into America might be purchased cheaper after the imposition of the new three-penny duty than before, by nine pence in the pound. The payment of these duties by the Americans would, as was supposed, give life and vigour to the declaratory act passed in Lord Rockingham's administration, and confirm the authority of parliament over the American colonies after the diminution it had undergone by the late repeal.

They are
opposed by
the Ameri-
cans.

These new duties were opposed by the Americans as well as the stamp-duty, though not, I think, quite so generally, nor with the same degree of violence.

FRENCHMAN.

Upon what pretence did the Americans oppose these new duties, seeing they were not internal taxes, as the duty on stamps had been, but only duties on the importation of certain commodities from Great-Britain; which were the sort of duties which had, according to your account, been formerly laid by the parliament of Great-Britain upon the Americans, and which the latter had always acknowledged themselves

themselves to be subject to? By what new logick did the Americans endeavour to free themselves from their obligation to pay these *external* taxes?

ENGLISHMAN.

New cases require new distinctions: and the Americans were for some time at a loss to find one that suited the case then in question; inso-much that, upon the first notice they had of these new duties, they only complained of them (if I remember right,) as being unreasonable, and imposed on them without any just occasion; but not as being illegal, or void, for want of a right in the British parliament to impose them. And it seems probable that, if great pains had not been taken by some leading men amongst them to excite them to an opposition to these new duties, they would soon have universally acquiesced in the payment of them. But this disposition was very soon changed in the most wonderful degree by the industry and ingenuity of Mr. John Dickenson, a young lawyer of eminence at Philadelphia, who wrote a periodical paper called "*the Pennsylvanian farmer's letters*," to enlighten the understand-

An account of the reasons alleged by the Americans as the grounds of their opposition to the new duties.

Publication of the Pennsylvanian Farmer's letters

ings of his countrymen upon this subject, and excite them to a new opposition against Great-Britain. These letters were written with great art and ability, but in a plain, familiar, and very diffuse style, suited to the comprehension of all ranks of men, and calculated to imprint the doctrines advanced in them in the most forcible and lasting manner on their minds. They were published originally, I think, in the New-York news-papers, and from them copied into all the other news-papers on the continent of North-America; and came out about once a fortnight. The effect of them on the minds of the Americans was prodigious. They made them almost universally converts to the doctrines contained in them, or rather they furnished them with plausible arguments to confirm themselves in the belief of those doctrines, which were already rooted in their hearts as wishes and sentiments, though not as settled opinions. They became the political bible of North-America. The principal doctrine advanced in them is this, "That the British parliament, for want of representatives from the several colonies of America, has no right to impose any taxes whatever on the Americans

The principal doctrine inculcated in those letters.

either internal or external, *with a view to raise a revenue*; but can only lay external taxes, or port-duties, on the commodities imported into, and exported from, America, with a view to the regulation of their trade." This is the grand distinction which runs through these famous letters, by means of which the writer of them encouraged the Americans to oppose the new taxes imposed by the British parliament, which had been laid with an express design of raising a revenue in America, and not for the purpose of regulating its trade. This distinction was universally adopted by the Americans; and it became almost as settled an opinion amongst them in the year 1768, "that the British parliament could not legally impose any external taxes, or port-duties, on the Americans, *with a view to raise a revenue*, as it had been in the year 1765 that it could not legally impose on them an internal tax." But they still allowed (though, I think, not unanimously,) that the parliament might establish external taxes among them for the purpose of regulating their trade. Such was the progress in the sentiments and conduct of the Americans towards exempting themselves from the authority of the British parliament.

It was generally adopted by the Americans.

FRENCH-

FRENCHMAN.

A remark
on the fore-
going doc-
trine.

This distinction between different sorts of port-duties, invented by Mr. Dickenson, was subtle and plausible, and wonderfully convenient for the purpose of exempting the Americans from the payment of any duties whatsoever, that should be imposed on them by the British parliament. For, as the duties would always produce some revenue *in fact*, the Americans might fairly enough alledge that they were *intended* to produce a revenue, and consequently were illegal and void, though, perhaps, the main design of them might be to regulate the trade of the commodities on which they were imposed. And I do not see any method by which Mr. Dickenson's distinction could be practically observed, without deceit or abuse by one or other of the parties.

ENGLISHMAN.

Your observation is very just. This new distinction had a manifest tendency to deprive the British parliament of the right of imposing any port-duties whatsoever on the Americans: which is no inconsiderable objection to the truth

of it ; since that proposition cannot be true from which false conclusions may be inferred. But indeed you and I have above agreed that the mere legal right of imposing taxes of every kind, internal as well as external, upon the subjects of the crown of Great-Britain residing in America, belongs to the British parliament, though perhaps it may seldom be expedient to exert it.

There is, however, a way of proceeding with respect to the port-duties that the British parliament might think fit to impose on the Americans, which would be, in a good measure, accommodated to Mr. Dickenson's distinction, and would serve to discriminate such duties as were imposed for the purpose of raising a revenue upon them from such as were principally intended for the regulation of their trade, though they likewise did produce some revenue. This method would be, to insert a clause in every act of parliament that was passed with only the latter view, by which it should be provided, that the revenue raised by the duties imposed by such act, whatever they might amount to, should not be disposed of by either the king alone, or the king and the British parliament conjointly, but be left to the disposal of the legislatures

A way of proceeding with respect to port-duties imposed on the Americans, which would be accommodated to the foregoing doctrine.

legislatures of the several provinces in which it should arise. By this means the parliament of Great-Britain could not be under any temptation to pass acts for raising a revenue on the inhabitants of America with a view to lessen their own burthens, under colour of regulating the American trade; since the revenue that would arise by such acts would not be at their disposal: nor could the Americans, with any appearance of justice, contest the legality of such acts upon the ground of Mr. Dickenson's proposition, by pretending that, though they were declared to be made only with a view to regulate the trade of America, yet the real purpose of them was to raise a revenue in America for the benefit of Great-Britain. This expedient makes a part of the famous conciliatory proposition made by Lord North in the British House of Commons on the 20th of last February.

It is a part
of Lord
North's
conciliato-
ry propo-
sition.

FRENCHMAN.

I am much pleased with this contrivance, and wish it may prove a means of reconciling the two parties to each other. And really, I should think that, if Great-Britain would give up, or forbear to exercise, her right of imposing internal

internal taxes on the Americans, (as, indeed, she seems to have done by the repeal of the stamp-act,) and should also resolve not to impose any external taxes, or port-duties, upon them, but with the restriction you have just now mentioned, until they shall have been permitted to send representatives to the British parliament, the Americans ought to be satisfied with such a temperament, and return to their old habits and affections for their mother-country. I mention the limitation of time to this concession, namely, *until the American colonies shall be permitted to send representatives to the British parliament*, not so much with a view to its ever taking place, (for that you have taught me to consider as a most improbable event, by reason of the disinclination of Great-Britain as well as America to the measure of an American representation in parliament;) as by way of salvo to the dignity of the British parliament, who, by passing such restrictive resolutions on the use of their own power, would exhibit a remarkable proof of their equity and moderation, which could not fail to do them honour.

A proposal of a method of settling the disputes between Great-Britain and the American colonies concerning the taxation of the latter, without any dishonour to the British parliament.

ENGLISHMAN.

A resolution necessary to be passed by both houses of parliament for that purpose.

I intirely approve the limitation you suggest, as a salvo for the dignity of parliament; and I heartily wish the parliament would adopt the whole measure of making the concession you have mentioned, with that limitation. This could be done only by passing resolutions in both houses of parliament, to be transmitted to the several assemblies of the American colonies, to the following effect; to wit, "*That, for the future, no tax, or duty, of any kind shall be imposed by authority of the parliament of Great-Britain upon his Majesty's subjects residing in those provinces of North-America in which assemblies of the people are established, until the said provinces shall have been permitted to send representatives to the British parliament; excepting only such taxes, or duties, upon goods exported out of, and imported into, the said provinces as shall be thought necessary for the regulation of the trade of the said provinces; and that when such taxes, or duties, shall be laid by the British parliament on any of the said provinces, the whole amount of the same shall be disposed of by acts of the assemblies of the provinces in which they shall have been*

been collected, respectively." Such a measure would be calculated to give the Americans satisfaction and security, by declaring a resolution not to tax them by the authority of the British parliament, (of which they have expressed so great a dread and aversion,) and at the same time (as you have justly observed,) to save the honour and dignity of that supreme legislature of all the British dominions, by not totally renouncing their right and authority to tax the American provinces, but only by resolving to forbear the exercise of it till they shall have taken a step towards the amendment of the constitution of their own body, which the most strenuous advocates for their authority acknowledge to be agreeable to equity in case it should be their intention to use that authority for the purpose of taxing America. For the late Mr. George Grenville himself (as we have already observed,) and others of the most zealous defenders of the rights of the British parliament, have acknowledged that such an alteration of the constitution of the British House of Commons, by admitting into it a reasonable number of members for the American colonies (agreeably to what was done a hundred

years ago in the case of the bishoprick of Durham) would be perfectly constitutional and equitable, and could not well be refused to the Americans, if they were to desire it and to declare a willingness to submit, in consequence of it, to the authority of parliament in all things in the same manner as the inhabitants of Great-Britain. Until, therefore, an offer of this kind is made to the Americans, and rejected by them, it can be no derogation to the honour of the parliament, but rather a proof of their equity and moderation, and therefore honourable to them, to forbear to exercise their authority over America in this delicate and dangerous business of taxation. And, as the people of Great-Britain seem hardly more disposed to make such an offer than those of America are to accept it, this forbearance of the exercise of the authority of parliament to impose taxes on the Americans may be continued for many years to come, perhaps for ever, without any loss of honour to Great-Britain, and with great joy and satisfaction to the Americans.

FRENCH

FRENCHMAN.

I see plainly that a measure of this kind on the part of Great-Britain must tend greatly to the removal of the present discontents in America. And yet the proposition of Lord North, which you some time ago mentioned, and which seems to be in substance pretty nearly the same with this generous measure, does not seem to make much impression on the minds of the Americans, nor to be considered by them as a favour of much consequence. This makes me suspect that I have misconceived lord North's proposition: and therefore I should be glad you would inform me whether it differs in any material circumstance from the measure we have been just now commending.

ENGLISHMAN.

The two propositions are indeed very different from each other. For Lord North's proposition declares that the British parliament will forbear (except in certain cases) to impose taxes on the Americans *only so long* as the Americans shall raise amn gft themselves by grants of their assemblies, and by ways and means of

Difference of the foregoing proposal from L^d. North's conciliatory proposition of the 20th of February, 1775.

their

their own chusing, such sums of money as the British parliament shall from time to time require them to raise ; and, upon their failing to do so, the British parliament is to be at full liberty to impose taxes of any kind, either external or internal, upon them : whereas the proposition we have been speaking of is a forbearance (except in certain cases) from the imposition of taxes on the Americans, (whether they raise any money amongst themselves, when required to do so, or not,) until they shall be permitted to send members to the British parliament, that is, according to all appearance, until the end of the world. The difference between these two sorts of forbearance of the exercise of the power of taxation over America, is striking and important.

FRENCHMAN.

It is indeed ; and sufficiently accounts for the ill reception the Americans have lately given to Lord North's proposition, consistently with our opinion that the other proposition would have gone far towards giving them satisfaction. But surely the remaining parts of the two propositions are alike, which contain the reservation

made

made by the parliament of the power of laying external taxes, or port-duties, on the Americans, for the purpose of regulating their trade, and the proviso that the amount of these duties should be left to the disposal of the legislatures of the several provinces in which they should be levied respectively.

ENGLISHMAN.

You are perfectly right. This reservation and proviso are the same in both the propositions. And that, I suppose, was the occasion of your mistake in imagining the propositions to coincide in their other parts. But, in truth, Lord North's proposition is so far from removing the apprehensions of the Americans concerning the danger of being taxed by the British parliament, that it is retrograde in that respect, and puts them in a worse condition than they have conceived themselves to be in ever since the repeal of the stamp-act in the year 1766. For ever since that period they have supposed that the right, or the exercise of the right, of imposing internal taxes on them had been actually relinquished by the British parliament: but that proposition seems to bring this right again

again in view, and to threaten them with the exercise of it in case of their non-compliance with the requisitions that shall be made to them by parliament to raise specific sums amongst themselves. It is no wonder, therefore, that this proposition of Lord North has not been well received in America.

FRENCHMAN.

I am now perfectly satisfied about the difference of the two propositions and the expedience of Great-Britain's making an offer to the Americans of the former proposition, if she means to reconcile them to her authority. But, pray, in what manner, and with what degree of unanimity, did the Americans oppose the execution of the act of parliament passed in the year 1767 for imposing the new duties on tea and certain other articles imported into America? For, I think, you said they opposed these duties with less violence than the stamp-act.

ENGLISHMAN.

When Mr. Dickenson, by his famous Farmer's letters, had persuaded the Americans that these new duties, though they were not internal

taxes

taxes, yet were of the nature of internal taxes, because they were laid in order to raise a revenue, and that they were therefore illegally imposed by the British parliament, they entered into general combinations, throughout all the English provinces, not to import the goods on which these duties were laid; hoping, by the distress this would bring on her trade, to compel Great-Britain to repeal the act that imposed them. These combinations were called *non-importation agreements*. They were entered into by a considerable majority of the merchants in most of the trading towns in America; but not by all of them. But those who were disposed to import these articles of commerce, were deterred from doing so by the fear of being delivered over to the mob to be ill-treated in their persons and property as enemies of public liberty. For, when any body presumed to oppose the proceedings of the committees that were appointed to carry the non-importation agreements into execution, or broke the resolutions which those committees had published, it was usual for them to give notice in the public newspapers that he had done so, and ought therefore to be considered and treated as a

The Americans oppose the new duties by entering into non-importation agreements.

Ill treatment of those who broke these agreements.

P p

publick

publick enemy, or, (as they sometimes expressed it,) a person inimical to the liberties of America. This was like the priests, in your religion, pronouncing a man a heretick, and delivering him over to the secular arm to be burnt alive, or otherwise tormented. The mob were in these cases the secular ministers of justice who undertook the punishment of these offences: and the offenders were sure to be severely punished by them, sometimes in their persons, by having their naked bodies smeared over with tar, and then covered with feathers stuck upon the tar, and so led about ignominiously through the publick streets; and sometimes in their property, by having their goods destroyed, or their houses pulled down. Many instances of this kind happened in the course of the years 1768 and 1769.

FRENCHMAN.

But were not the persons concerned in these acts of violence prosecuted in the provincial courts of justice, and brought to condign punishment for such enormities?

ENG

ENGLISHMAN.

That was impossible, for more than one reason. For, in the first place, the executive branches of the governments of the several provinces, that is, the governours, judges, sheriffs, constables, and other civil officers concerned in the administration of justice in them, were too weak to carry any sentence of a court of justice against any of these rioters into execution, if such a sentence had been passed: and, if they had attempted to do so, it is almost certain that a mob would have risen to prevent it, and, perhaps, to ill-treat, as enemies of their country, the very magistrates and officers of justice who should have thus attempted to execute the law. And, in the second place, it was almost impossible to procure any sentence of a court of justice to be passed against any of these rioters. For you well know that, by the English law, no such sentence could be passed against them till they had been regularly indicted, tried and convicted of the offence by a jury of their peers; and, in the then disposition of the people to favour these rioters, whom they looked upon as the active defenders of

Impossibility of punishing the rioters who mal-treated the persons who were obnoxious to the popular party in America.

publick liberty, it was difficult to find juries who would either indict them for these offences, or convict them of them, when indicted. So that, from these causes, the perpetrators of these acts of violence were almost sure of escaping with impunity.

FRENCHMAN.

If the mobs were thus permitted to wreak their vengeance on the friends of government and Great-Britain without controul, I do not understand in what sense you can say (as, I think, you did some time ago,) that the Americans opposed these last duties with less violence than they had done the stamp-act. What greater degrees of violence than those just now mentioned was it possible for the Americans to exert?

ENGLISHMAN.

Difference between the acts of violence committed in this second opposition to Great-Britain and those committed in opposition to the stamp-act.

In the case of these last duties they only used violence against their own people, that is, against those who imported the dutied goods from Great-Britain in opposition to their combinations; but did not, as I recollect, proceed so far as to use violence against the officers of government; whereas

whereas, in the case of the stamp-act, the mobs laid hands on the persons appointed by government to distribute the stamped paper in the several provinces, and compelled them to resign their offices, and to swear that they would not execute them; and they also seized on the stamped papers themselves in some places, and destroyed them. These proceedings had more the appearance of direct rebellion against the Crown than the proceedings in the case of the other duties; or rather, indeed, they were downright acts of rebellion; whereas the other proceedings could only be called riotous and tumultuous. However, these different degrees of violence are hardly worth inquiring into. In both cases they were very great and very alarming to Great-Britain.

FRENCHMAN.

What effect had these violent proceedings of the Americans on the conduct of the British parliament? Did they produce a repeal of the act by which those duties had been imposed, as their former resistance had produced a repeal of the stamp-act? or did the parliament permit the act to continue in force, and endeavour to cause the duties to be levied?

E N G.

ENGLISHMAN.

Continu-
ance of the
new duties
and the
non-im-
portation
agreements
in opposi-
tion to
them.

The act continued in force from 1767 to 1770: and during all that time the non-importation agreements of the Americans were kept up likewise; and, by means of the violent proceedings above-mentioned of the American mobs against those who presumed to break them, they were generally and outwardly observed; I say, generally and outwardly, because it is certain that several traders in America did contrive, by artful pretences and under various disguises, to import some of the dutied commodities, eluding the diligence of their own popular committees for carrying those non-importation agreements into execution, with the same subtlety and vigilance as had formerly been employed to elude the restraints on trade imposed by the British parliament. But in general the non-importation agreements were observed, to the great and mutual inconvenience of both Great-Britain and America, who were thereby kept in a continual state of uneasiness and ill-humour with each other during the whole three years: and the duties, which gave occasion to this uneasiness, produced little

or

or no revenue. At last Great-Britain seemed to grow weary of the contest, and the parliament took off all the duties except that upon tea, which was only three-pence upon every pound of tea imported into America, and which it was therefore hoped the Americans would pay rather than be deprived of the use of a commodity that was in such general request among them. The other duties were taken off upon the ground of their being injudicious, and prejudicial to commerce, and not of their having been laid without a legal and adequate authority. And the duty on tea was permitted to continue, on purpose to exclude any inference of that nature from the suppression of the other duties. This repealing act was passed about February, or March, 1770.

The said duties were all taken off by act of parliament in 1770, except the duty upon tea.

FRENCHMAN.

What effect did this new instance of concession in Great-Britain produce in America?

ENGLISHMAN.

A very happy one. The non-importation agreements were immediately dissolved with respect to those commodities upon which the duties

Good effect of the suppression of the said duties.

duties had been taken off: and, though they were still kept up with respect to tea, by way of protestation against the right of Great-Britain to continue the duty on that article, yet they were executed more remissly than before; insomuch that several traders in America imported tea thither after this time, and paid the duty upon it, without being molested for so doing by the popular committees, or the mobs who acted under their direction, in the manner they had been before. So that the contention with Great-Britain upon this subject seemed to be almost at an end, and the Americans were beginning, by gentle degrees, practically to submit to the tea-duty, and thereby, in some degree, recognize the authority of the British parliament to impose it.

FRENCHMAN.

Nothing could be more advantageous to Great-Britain than such a state of things. It seemed naturally to tend to the establishment of that line of conduct which the Americans had marked out at the time of their opposition to the stamp-act, and which the parliament of
Great-

Great-Britain, (by repealing that act and not afterwards reviving it, or passing any other act to lay an internal tax upon them) had seemed to have resolved to adopt; namely, that the British parliament should forbear to impose internal taxes on the Americans, but should continue to exercise their right of imposing port-duties, without regard to Mr. Dickenson's new-invented distinction concerning it, which might easily be abused by the Americans to the purpose of totally evading them. This line of conduct was, perhaps, the most equitable and the wisest system that could be pursued, while both parties continued averse to the more obvious and natural remedy to their dissensions, an American representation in parliament. It is strange therefore that it should not have been adhered to. Pray, what were the events that occasioned a departure from it, and brought on a renewal of the former dissensions between the two countries, within these last two or three years, in a higher and more violent degree than ever, and with all the symptoms of an approaching civil war?

Of the causes of the renewal of the disturbances in North-America.

ENGLISHMAN.

These misfortunes are undoubtedly owing to the imprudent conduct of Great-Britain ; as I believe you will soon be convinced when you hear the particulars of it.

Bad state of
the affairs
of the East-
India com-
pany in the
year 1772.

You must know then that the affairs of the English East-India Company were, by various causes, reduced to a very bad condition about the year 1772 ; insomuch that they could no longer afford to pay to the national revenue of Great-Britain the annual sum of £.400,000 sterling, which had been required of them by the parliament for three or four years before that period, as a consideration for the enjoyment of the large revenues of the rich territories of Bengal, Bahar, and Orixá, which they had lately acquired, and which, it was thought, could not, in strictness of law, be acquired by a mere commercial company, but only by the nation at large, or by the king ; or, if it could be legally acquired by the company, it was thought to be a fair and just object of taxation towards the support of the national expence.

Upon some such grounds this annual sum of

£.400,000

£.400,000 sterling had been required of the East-India Company, and by them paid to the publick during a few years; which, considering that the territorial revenue they had lately acquired, and on account of which this sum was demanded of them, was more than three millions of pounds sterling per annum, seemed to be but a moderate tax upon them. However, moderate as it was, their affairs were at so low an ebb in the year 1772, that they could no longer afford to pay it; and they were also obliged to reduce the dividend paid annually to themselves in proportion to their several shares of their stock, from twelve pounds for every hundred pounds of stock, (at which it had stood for a few years,) to six pounds. At the same time they had in their ware-houses in London an unusual quantity of tea, which they could not tell how to dispose of; which was owing in part to the non-importation agreements of the Americans, which had prevented them from importing tea in any considerable quantities from Great-Britain ever since the year 1767, when the tea-duty and the other duties above-mentioned were imposed on the Americans. It is true indeed that after the year 1770, when all

Reduction
of their
dividend
from 12 to
6 per cent.

Unusual
quantity of
tea in their
ware-hou-
ses, which
they could
not find a
market for.

Their opinion that it might be disposed of to advantage in America.

those other duties were taken off, the violence of the opposition to Great-Britain had, in a great degree, subsided, and some American merchants had imported tea from Great-Britain without being molested by the mobs. But the quantities so imported had been but small, and the greater part of the Americans had either gone without tea, or procured it by means of a clandestine and unlawful trade with Holland. As, therefore, the Americans had imported but little tea from Great-Britain for several years past, it was imagined that they must be in great want of a supply of that commodity, of which it was known that they were, in general, very fond. The directors of the East-India Company therefore conceived that America would prove a most convenient market for their superfluous stock of tea, which lay dead upon their hands: and, from the appearance of an extinction of the late violent sentiments of the Americans in opposition to Great-Britain, they imagined that the continuance of the small parliamentary duty on tea, after the abolition of the other duties, would be no hindrance to the sale of their tea amongst them. They therefore petitioned for an act of parliament to empower them to send cargoes of

their

their tea to America to be sold on the Company's account, instead of selling it here in England, as by their charter, or by former acts of parliament, they were bound to do. This plan of relief to the East-India Company was approved by the ministry and the parliament; and the act was passed accordingly, the ministry and parliament probably thinking, (as well as the directors of the East-India Company,) that the spirit of opposition to parliamentary authority had so far subsided in America, that no difficulties would attend the importation of this tea amongst them, nor prevent its speedy sale. But in this they were fatally mistaken. Though the Americans had opposed the importation of tea but faintly since the year 1770, when the other new duties had been taken off, they were roused by this attempt of Great-Britain to renew their former vigorous efforts to prevent the success of it. And they even went greater lengths than they had done before in their opposition to it. For they did not content themselves with combining together not to import the tea, or not to purchase, or use, it when imported, and with ill-treating those who either refused to enter into such combinations, or broke

Act of parliament permitting them to send their tea directly to America.

Violent opposition of the Americans to the importation of these cargoes of tea.

Conduct of
the people
at New-
York and
Philadel-
phia.

broke them after they had entered into them, but they made use of force, and threats of force, in some of the principal sea-port towns of America to prevent its being landed ; which was a kind of opposition which, (like that which had been made to the stamp-act,) came very near to rebellion, or high-treason. This was done in the towns of Philadelphia and New-York. The committees appointed by the opposers of the tea-duty sent vessels out to sea to meet the ships of the East-India Company that were coming thither loaded with tea, and to inform the masters of them that, if they proceeded on their voyage and attempted to land their cargoes, they would be forcibly opposed by the body of the people in those towns in their attempts to do so, which might be attended with mischievous consequences to their own persons, as well as to the cargoes that were entrusted to their care. This denunciation had the desired effect with respect to those two vessels : for, in consequence of it, the masters of them desisted from the prosecution of their voyages, shifted their course, and returned with their cargoes to

Conduct of
the people
of Charles-
Town in
South Ca-
rolina.

London. In Charles-Town in South Carolina the method of proceeding was somewhat differ-

rent :

ment: the tea was indeed landed; but the
 opposers of the tea-duty took it away by force
 from the persons to whose care it was consigned,
 and locked it up in a store-house, and prevented
 it from being sold: which differed but little in
 point of violence from the proceedings at New-
 York and Philadelphia. And at Boston the
 people that opposed the tea-duty went further
 still than at either of the three other places:
 for a party of them, consisting of about forty
 or fifty men, disguised in Indian dresses, and
 with black crapes over their faces, went on
 board the vessel which had brought the tea,
 (and which was then lying in Boston harbour,)
 broke open the chests in which it was packed,
 and threw it all into the sea. This was done
 in consequence of a motion for that purpose
 that had been made at a very numerous meeting
 of the people of the town of Boston, and re-
 ceived by them with general applause; and
 therefore it may justly be considered as the act
 of the body of the people of that town, I
 mean, as the act of that great majority of the
 people there who were enemies to the tea-duty.
 On the other hand, it must be observed that
 this act of violence was not committed till the
 people

Conduct of
 the people
 of Boston in
 New-Eng-
 land.

people of Boston had found that all their resolutions against the landing of the tea were not sufficient to induce the master of the vessel that brought it to return back to London with it; (as the masters of the vessels that had carried the like cargoes towards New York and Philadelphia had done;) and that consequently there was an immediate danger of its being landed. These violent proceedings of the North-Americans with respect to the tea-ships happened in the months of October, November and December, of the year 1773; the destruction of the tea at Boston, which was the last of them, was in December.

FRENCHMAN.

These were indeed very outrageous proceedings; and such as one would hardly have expected to see happen amongst the Americans in consequence of this attempt to import the cargoes of tea by the East-India Company after the connivance they had shewn to the private merchants who had imported tea thither for the preceding two or three years. I should have rather thought that they would have extended that connivance to the like importation

by the East-India Company, or, at least, would have abstained from such publick and direct acts of violence as those you have mentioned, which bear so near a resemblance to open rebellion. And I imagine the ministry of Great-Britain thought the same; or they would never have procured that act of parliament which permitted the East-India Company to make this unhappy experiment. I should therefore be glad to be informed whether there were any particular circumstances that contributed to light up anew this flame in America, over and above the general aversion the Americans had conceived against being taxed by the British parliament,

ENGLISHMAN.

I have heard that there were some such circumstances; and particularly the following one.

Besides the tea which had been imported into America in a regular manner from England by a few private merchants in the years 1771 and 1772, without any molestation from the popular committees and their mobs for so doing, there were much larger quantities of the same commodity imported thither clandestinely and unlawfully from Holland; and this was done,

An additional circumstance that contributed to increase the violence of the opposition of the Americans to the importation of the East-India Company's tea.

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as you may naturally suppose, by some of those merchants who were warmest in their opposition to the authority of the British parliament. These merchants had great quantities of this smuggled tea in their warehouses in America, which they had not yet had time to dispose of, when the parliament passed the act which permitted the East-India Company to send their tea thither. The news of this permission, therefore, greatly alarmed them on the score of their private interest, as well as on account of its dangerous consequences with respect to the liberties of America. For they apprehended they should be underfold by the East-India Company, who were known to have immense quantities of tea in England beyond what was necessary to supply the usual demand there, and who therefore were likely to offer it to the Americans at a very low price; the consequence of which must have been that the merchants in America who had already imported large stocks of tea from Holland, must have had it left upon their hands. With this prospect of great private loss from the intended importation of tea by the East-India Company, it was reasonable to suppose that these merchants would exert themselves to

the utmost to prevent this measure from taking place; which they could no other way hope to effect but by reviving, in the strongest manner possible, the popular clamour against the importation of a commodity upon which a parliamentary duty was to be paid. This was the private motive that conspired with the publick sentiments and claims of the Americans to renew, in so fierce a manner as we have seen, the opposition to the payment of the duty on tea, and consequently to the importation of this tea into their ports. And this might easily have been seen and known by the British ministry, and ought to have deterred them from trying this rash experiment. But, indeed, without this private motive, it was natural to imagine that a measure of this kind would revive the spirit of opposition in the Americans. For the sending such large cargoes of tea to America by virtue of an act of parliament passed expressly for the purpose, had the air of a triumphant execution of the act that had imposed the duty on that commodity:—it was endeavouring to make their payment of the duty on it as notorious as possible, and thereby to preclude them from ever saying, at any future time, that,

But the principal ground of this opposition was, probably, the publick and avowed one, to wit, the danger apprehended to the liberties of America from the importation and sale of this tea.

though a few selfish merchants might have imported small quantities of tea from Great-Britain and paid the duty imposed on it by parliament, and a few luxurious individuals might have purchased it of them, and used it, yet that the great body of the Americans had always abstained from purchasing and using it on account of the duty it was loaded with, as well as made protestations against the right of parliament to impose the said duty on it:—it was, in short, (to use a vulgar expression,) cramming the duty down their throats, instead of letting it gain upon them by gentle and insensible degrees, as (by the connivance, or relaxation of the opposition to it, which had prevailed for a year or two before,) it had already begun to do. This permission, therefore, to the East-India Company to send their tea to America may justly be considered as an imprudent measure on the part of Great-Britain.

FRENCHMAN.

I confess, it does appear to have been so. But still, I think, it is hardly sufficient to account for the present very violent animosity of the Americans against Great-Britain. There must

as I imagine, been some other measures taken by Great-Britain against America, of a still more offensive and alarming nature, to give rise to so general a spirit of resentment and hostility as seems now to prevail amongst the Americans. And such measures I can easily conceive to have been taken by Great-Britain in the first transports of her indignation at hearing of that provoking act of violence, the destruction of the tea at Boston. Pray, what were the measures taken by Great-Britain upon that occasion?

ENGLISHMAN.

Your conjectures are very well founded. Of the
 The present dangerous troubles in America over-great
 were not occasioned intirely, nor even principally, by that attempt to import the tea of the shewn by
 East-India Company, but rather by the angry the British
 acts of parliament that were passed in the spring parliament
 of the year 1774 in consequence of the violent upon hear-
 endeavours of the Americans to defeat the suc- ing of the
 cess of that attempt, and more especially, in destruction
 consequence of their destruction of the tea at of the tea
 Boston. On this occasion the indignation of at Boston,
 Great-Britain knew no bounds: but she adopted
 measures of severity and resentment that had no
 kind

The passing
of the Bo-
ston-char-
ter act and
the Que-
beck act in
1774.

kind of relation to the offences committed by the Americans, and which had a strong and an immediate tendency to unite all the American provinces more closely than ever in opposition to her. The measures that I allude to were the Boston-charter act and the Quebeck act, which had evidently not the least connexion with the destruction of the tea at Boston, or the forcible opposition to its importation at New York and Philadelphia. For, as to the Boston-port act, by which the town of Boston was prohibited to be made use of as a sea-port town, or all its trade was stopped, till the people of Boston had made a sufficient compensation to the East-India Company for the destruction of their tea, I acknowledge that that act had a near relation to the offence that gave occasion to it, and perhaps might be a proper method of punishing the people of Boston for it, or rather of compelling them to do a mere act of private justice with respect to the company which they had injured: though there are some parts even of that act which cannot be wholly justified upon this ground. But these I shall not now examine, because this act does not appear to me to have given general offence to the Americans, and

to have become a cause of the present alarming commotions: but, on the contrary, it seems probable to me that, if Great-Britain had stopt at this one act, the other provinces of America would have left the people of Boston to shift for themselves, until they had made that reparation to the East-India Company, for the damage done to their property, which justice seemed to require of them. But what had the destruction of the tea to do with the charter of the Massachusetts Bay? How did the privileges contained in that charter contribute to that act of violence? And why, therefore, should they be taken away?---That outrage was committed by a party of forty or fifty men, disguised in Indian dresses and with crapes over their faces, in consequence of a motion made and applauded in a very numerous meeting of the people of Boston, called a town-meeting. This kind of meeting is not authorized by their charter, nor even mentioned in it, but is warranted by some of their provincial acts passed by the governours, councils, and assemblies of former times. It ought not therefore to be imputed to the charter: nor ought the privileges contained in the charter to be taken away on account of the rash resolutions

Unreason-
ableness of
passing the
Boston-
charter act.

resolutions taken in it. Indeed, if these town-meetings had not been authorized by the laws of the province, but expressly forbidden by them, and by the charter likewise, it is probable that on that unhappy occasion of the arrival of the tea in the harbour of Boston, and the refusal of the master of the vessel to return back with it to London, some such meeting of the people of Boston would have been held, either under the name of a town-meeting or some other name, (which is a matter of no sort of consequence,) to concert measures to prevent its being landed. Accordingly we see that in the provinces of New York and South Carolina, (which have no charters, but are governed entirely by the king's commissions to his governors,) the people joined in measures of violence to prevent the sale of this tea; in the former place, sending a threatening message to the master of the vessel that was bringing it, by which they forbid him to proceed on his voyage and enter the harbour of New-York, and commanded him to return with the tea to England; and, in the latter place, seizing upon the tea after it was landed, and locking it up in a storehouse, in order to prevent its being sold. And

Pennsylvania, (which is indeed governed by
 a charter, but of a very different kind from that
 of the Massachusset's Bay, and in which the
 parliament has not as yet thought fit to make
 any alterations,) the people proceeded in the
 same violent manner as at New-York. This
 violence therefore at Boston had no connection
 with the charter of that province, and ought
 not to have given occasion to any diminution
 of the privileges which had been thereby granted.
 The true and only cause of this act of violence
 of the people of Boston, and of the other acts
 of violence committed in the other provinces of
 America, was the general opinion, that was
 now become rooted in the minds of the Ameri-
 cans, that the British parliament ought not to
 tax them, and their firm resolution not to let
 themselves be so taxed. The natural way there-
 fore to prevent such acts of violence for the
 future was one of these three; either, *to alter*
 this general opinion, or *to conform to it*, or,
 lastly, to station such a moderate military force
 at the principal sea-port towns of America, or
 at least at Boston, as would deter the people
 from venturing to commit them. To alter the
 general opinion of the Americans by mere argu-

The safer
 and more
 natural
 methods
 which
 might have
 been taken
 to prevent
 the like
 acts of vio-
 lence in
 America
 for the
 future.

ment, was indeed almost impossible, after the deep impresson which the Farmer's Letters had made on their minds: but perhaps it might have been possible to succeed in *altering* it by offering them a competent representation in parliament, or by some other reasonable condescension. To conform to this opinion was both safe and easy, by passing such a resolution in both houses of parliament as we have above spoken of, to wit, "that no internal tax should be laid on the Americans by the British parliament until they had been permitted to send representatives to it; and that the produce of all external taxes imposed by the parliament should be left to the disposal of the legislatures of the several colonies in which they were raised. And, lastly, if this second method had been thought an improper condescension in Great-Britain, and unworthy of her dignity, it would, I imagine, have been practicable to support the claims of the mother-country by force, by sending a body of about 2000, or at most 3000, men to Boston, to prevent such outrages for the future. This was done in the year 1768, when the people of Boston were almost in a state of open rebellion: four re-
giments

giments were landed there, which together amounted to only 1200 men, and peace was instantly restored: nor did any fresh disturbances break out there till two of those regiments had been injudiciously, or, at least, unfortunately, removed from thence; after which the mobs of Boston grew confident that they could master the remaining two regiments, and accordingly begun to pick quarrels with them, and brought on that unhappy disturbance at Boston, of which we have already spoken, in which twelve soldiers, firing their pieces in their own defence, killed five of the principal rioters, and wounded about as many more; after which melancholy event the soldiers were removed to the king's fort, called *Castle William*, at the distance of three miles from Boston. But it is almost certain that, if the whole four regiments had continued at Boston, (though they amounted to only 1200 men,) that unhappy affair would never have happened. As therefore the people of Boston had, by their outrage against the tea of the East-India Company in December, 1773, made the presence of a body of soldiers amongst them a second one necessary to the preservation of the publick

peace and the due execution of the laws, it seemed to be justifiable to send thither a body of troops sufficient to answer that purpose, as 2000, or at most 3000, men in Boston, with 1000 at Castle William, would probably have been. If this had been done, and a second ship, loaded with tea, had been sent thither from England, the cargoe might have been landed under the protection of this garrison, and the dignity and authority of the British parliament would have been effectually supported. And, when this new cargoe of tea had been once landed, it is not improbable that it might have been sold amongst the Americans; as people are often found to do things as individuals, which on formal occasions, and when met together in numerous bodies to consult on publick measures, they are ready to condemn. At least it is certain that the popular leaders of the Americans apprehended this would be the case with the body of the people in America, if once the tea came to be landed; and therefore they took such violent measures to prevent its being landed. Now, if once a cargoe of tea had been landed and sold at Boston, the example would probably have been followed by

the other provinces, and the resistance of America to the authority of parliament upon this subject would have been at an end. In the mean while the injury done to the East-India Company might have been repaired in this manner. Proclamations might have been issued at Boston offering rewards for the discovery of the rioters who went on board the tea-ship in disguises, and destroyed the tea; and, if they were thereupon discovered, actions of trespass should have been brought against them by the agents of the East-India Company in the courts of justice at Boston. If, upon these actions, the juries had refused to find verdicts for the plaintiffs, notwithstanding the evidence was sufficient to prove the fact, or, if they had found verdicts for the plaintiffs, but had given them compensations manifestly short of the value of the tea that had been destroyed; and this had been reported to have been their partial conduct by the judges who would have tried the causes; so that there had been a manifest and enormous failure of justice towards the injured party;—or, if, upon the offers of rewards for the discovery of the persons that destroyed the tea, no such discovery had been made; whereby a failure

A cautious method that might have been taken to procure satisfaction to be made to the East-India company.

failure of justice would have happened for want of proper evidence to ground judicial proceedings on;—in either of these cases, perhaps, but not before, it might have become proper for the British parliament to interpose in some extraordinary manner to compel the people of Boston to do justice to the East-India Company, as, for instance, by putting a stop to the trade of Boston, till a certain sum of money (deemed by the parliament to be a sufficient compensation to the East-India Company for the injury they had sustained,) should have been paid by them to the said company. I say only, *perhaps* this might have been proper even in this case: for I am not sure that it would not have been a still better way of proceeding, for the parliament to have considered the destruction of the tea as a misfortune to the East-India Company arising from the enmity and violence of a few unknown, wicked, men, and not as the act of the people of Boston in general, and consequently to have required no compensation for it from the whole town of Boston, but either to have let the East-India Company suffer the loss, (which, it must be observed, was occasioned by the compliance of the parliament with the

Company's

Company's own request,) or else, if compensation must be made to them, to have made it out of the revenue of Great-Britain, upon the ground of the government's having neglected to provide such a force in the town of Boston as was necessary to protect the subjects of the Crown in their trade thither. A compensation of this kind would probably have cost Great-Britain about twenty thousand pounds sterling, and would, if it had prevented the approaching civil war, have been the means of saving her more than twenty millions.

These were the measures that ought, in my opinion, to have been taken by Great-Britain with respect to the people of Boston after their destruction of the tea. But not one tittle of their charter should have been altered, either for the better or the worse. For this was a subject of a different and still more important nature than the other: and the meddling with it was heaping fuel upon the fire of discord already kindled, and giving the Americans new matter of complaint and new reasons for uniting against Great-Britain.

FRENCH.

FRENCHMAN.

Indeed it is surprizing that the British parliament should have touched upon that new and delicate subject, (which I see plainly had no relation to the destruction of the tea,) when they had already so much business upon their hands to settle the disputes concerning their right of imposing external taxes in America.

Dangerous tendency of the act for altering the charter of the Massachusset's Bay.

The alteration of the charter of Boston, I should have apprehended, would have been of itself almost sufficient to raise a rebellion in that province, without the preceding dissensions concerning taxation. Nor could any measure of the British parliament tend more to alarm the other provinces of America, and make them assist the people of Boston, than this; since, if the parliament can thus make alterations in the charter of Massachusset's Bay in one year, and that without any misconduct proceeding from the charter, it may justly be apprehended that they will make the like alterations in the other charters of America in another year: and thus nothing will be safe and permanent in all the boasted liberties of the Americans; but they will wholly depend upon the pleasure of the British

British parliament. I easily conceive that this apprehension must have spread very far amongst the Americans, and raised a prodigious ferment in their minds.

ENGLISHMAN.

It certainly has done so, and has contributed more than any former measure to make them consider the cause of Boston as the common cause of all America. Till that charter-act was known in America, the people of the other provinces, and more especially those of Pennsylvania, were disposed to consider the inhabitants of Boston as having gone *a step too far* in their opposition to the tea-duty, when they destroyed the tea that was the object of it, and thereby did a private injury to the East-India Company. Those Americans therefore thought it was the duty of the persons concerned in the commission of that injury, to make the East-India Company an adequate satisfaction for it; even as, in the year 1766, after the repeal of the stamp-act, the assembly of the same province of the Massachusetts Bay had granted considerable sums of money out of the publick revenue of the province, to make amends for the damage that had

The mischievous effect of the Boston-charter-act on the minds and resolutions of the Americans.

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been

been done to the property of particular persons by the mobs that had opposed the stamp-duty. And they expected that Great-Britain would take some effectual method for compelling them to make such satisfaction ; and thought it reasonable that she should do so. Nor did they think the Boston-port bill an unfit method of compelling the town of Boston to make this satisfaction. But when, in a few weeks after the Boston-port act, the act for altering the charter of the province arrived in America, the tone of all the other provinces was instantly changed, and they agreed with the inhabitants of the Massachusetts Bay in declaring that it was then most evident that the liberties of all America were in danger, and that measures of union must be entered into by them all for their preservation. The destruction of the tea, and the satisfaction which it was reasonable to make for it, were now become matters of subordinate consideration ;——the very vitals of their liberty, they said, were struck at, and must be defended by arms, if they meant to keep them. And then, in a few weeks after this Boston-charter act, the act for the government of the province of Quebeck was received in America

which

which carried the alarm to the liberties of America still further, if possible, than the charter-act, and made them tremble even for the existence of their assemblies, (which the charter-act had not meddled with,) and suspect that Great-Britain, if they submitted to her authority, would, in a short time, abolish those popular legislatures, and govern the several provinces of America by legislative councils consisting of persons to be nominated by the king and removeable at his pleasure, like that which is established in Quebeck. This act seems to have raised the discontents in America to their highest pitch, and to have driven even the former friends of Great-Britain (whom the popular party had distinguished by the name of *tories*, on account of their supposed want of zeal for the liberties of their country) into the measures of the opposite party. For since this act we have hardly seen any person amongst the Americans who has expressed the least inclination to acknowledge and support the authority of parliament, except the custom-house officers and other officers of government in America, who hold lucrative employments there at the pleasure of the Crown, and a few of the clergy

The said
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vous effect
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of the Church of England, who are eagerly desirous of having a protestant bishop sent to America, and who, probably, entertain no hope of seeing that favourite measure accomplished but by the authority of the British parliament. All the rest of the Americans seem to be averse to the authority of Great-Britain, though not to be disposed to act with equal vigour in resisting it; some of them being, as I before observed, only passive enemies of it, who disclaim and deny it in as strong terms as their brethren, but are not inclined to resist it by force of arms.

FRENCHMAN.

Of the party in America who were friends to Great-Britain before the passing of the said alarming acts of parliament.

You seem to suppose that, till these two unhappy acts of parliament were passed, there was a party of men of independent condition in America who might be considered as the friends of Great-Britain and the authority of the British parliament. Pray, is that your opinion? and, if it is, upon what grounds do you entertain it?

ENGLISHMAN.

I hardly know what answer to make to the question. For I must needs confess that I have

never

never myself met with many independent persons in America who were disposed to acknowledge the authority of the British parliament to tax them ; I mean, of late years, since the repeal of the stamp-act and the publication of the *Farmer's letters*, and the consequent non-importation agreements. For fifteen years ago it was acknowledged by every body. I have therefore no reason to conclude from my own observation that there was, before the passing of those two acts, a sufficient number of persons of that way of thinking to be called a party ; though I have on some occasions met with a few such persons. But it is well known that several gentlemen of great character and abilities in America, and who have had great opportunities of knowing the state of parties in it, have repeatedly transmitted accounts of a different kind to the ministers of state, and their other correspondents, in England, in which they have assured them that there was a great number of persons of weight and property in America that were friends to the authority of the British parliament, and who would be ready, when properly supported by a respectable body of troops, (that should be just sufficient to keep
the

the mobs in awe,) to declare themselves to be so. And in the same accounts these gentlemen of eminence have spoken of the popular party in America as being *a faction*, and have frequently called them by that name, intimating thereby, (as I suppose,) either that they were a minority of the people there, who disturbed their more numerous and peaceable fellow-subjects by their violent and tumultuous behaviour, or, at least, that, if they were more numerous than the other party, they had fewer men of property and liberal education amongst them. Now these accounts do not appear to be true with respect to the present state of America; since, though general Gage is now at Boston with a very large body of troops, there has been no considerable number of persons of any class or sort, high or low, rich or poor, of liberal or of low education, that have declared themselves in favour of the authority of the British parliament; but almost every body has appeared to be dissatisfied with it, and many persons have absolutely taken arms against it and twice engaged the British troops in battle on that account, and others, of a more peaceable disposition, are wishing and seeking for

No such party has appeared in America since the passing of the said two acts of parliament.

for milder ways of ending the dispute by petitions to the king and proposals of a treaty and compromise with the parliament, but not of a complete submission to its authority. To reconcile this state of things with the accounts that have been given of America by the persons of character above-mentioned is no inconsiderable difficulty. It is hardly possible to conceive that those persons should have been so intirely mistaken in their judgements and opinions of the Americans as they must appear to have been, if we judge from a survey of the present state of America: and still less ought we to imagine that they meant to deceive the British government, and bring on the present most destructive civil war. We must therefore conclude that their accounts of the sentiments of the Americans were true in the year 1772, though they are not so now, and that *till that time* there were many persons in America who (notwithstanding the claim of the British parliament to the right of imposing taxes on the inhabitants, and their exercise of that right in the continuance of the trifling duty upon tea) were friends to Great-Britain, and averse to any measures of resistance to the parliament's authority: ~~though~~
but

Reason for
supposing
that there
was such a
party about
the year
1772.

It is probable that this party abandoned the cause of Great-Britain upon the passing of the said two acts.

even these persons were not, as I believe, disposed expressly to acknowledge its right to tax them. But, upon the passing the Boston-charter act and the Quebeck-act in the last year, 1774, it seems probable that the majority of even these friends to government, or Great-Britain, thought it necessary to change their conduct and go over to the more violent party who were disposed to resist the authority of parliament by force of arms, as being the only method left them for the preservation of their liberty. And indeed I have heard more than one of these late friends, and now reluctant enemies, of Great-Britain express themselves in very plain and striking terms to that effect, with a melancholy sensibility to the distressful condition they were driven to, which I shall not easily forget.

FRENCHMAN.

If you can recollect the expressions they made use of on that subject, I should be much obliged to you if you would repeat them. For their own words will best convey their sentiments.

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ENGLISHMAN,

I will endeavour to do so as well as I can; and indeed their expressions affected me so strongly at the time, that I believe I can recollect a good many of them. They expressed themselves to the following effect. "We have hitherto been engaged in a dispute with our mother country, not concerning the existence of our assemblies, nor the free and full exercise of their legislative powers for the benefit of their respective colonies, but only concerning their subordination to the supreme legislature of the whole British empire, the parliament of Great-Britain. The members of that great legislature have insisted, that the assemblies of the American provinces are of the nature of the common-councils of the corporation-towns in the island, or kingdom, of Great-Britain, which have a local and inferiour species of legislative authority, or, as it is expressed in the American charters and commissions, an authority to make laws for their own good government, not repugnant to the general laws of England, and which are known by the name of *bye-laws*;

Sentiments of those Americans who had been attached to the interest and authority of Great-Britain, and had been stigmatiz'd by the name of *Tories* on that account, upon the receipt of the Boston-charter act and the Quebec-act.

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" but

“ but without interfering in the least with the
 “ superiour authority of the parliament, which
 “ is the supream and general legislature of the
 “ whole nation, and has power to bind all the
 “ subjects of the crown in every part of its
 “ dominions. And we, the sober and loyal
 “ party in America, (whom our brisker coun-
 “ trymen have stigmatized with the name of
 “ *Tories*, on account of our attachment to
 “ Great-Britain,) being convinced by the force
 “ of the reasons alledged in that behalf, and
 “ desirous of maintaining our union with Great-
 “ Britain in the most perfect manner, have
 “ acknowledged the justice of this pretension,
 “ and have declared ourselves to be bound in
 “ duty, and willing in fact, to obey the su-
 “ pream legislative authority of the parlia-
 “ ment; though we have wished at the same
 “ time, that they would forbear to use it for
 “ the purpose of imposing taxes on us, and
 “ leave that single and delicate business to be
 “ transacted by our own assemblies, as it has
 “ always used to be till the unfortunate stamp
 “ act in 1764. These have been our mod-
 “ erate and friendly sentiments towards Great
 “ Britain, though a more clamorous and vi-

"lent party among us has inflamed the people
 "with notions of a very different kind, and
 "has led away a majority in our assemblies to
 "declare, that they are not subordinate in
 "any respect to the British parliament, but
 "perfectly co-ordinate with it, and equal to
 "it in authority within the limits of their re-
 "spective provinces. These pretensions we
 "are forced to disapprove, and have, from
 "time to time, expressed our disapprobation
 "of them, as far as the over-bearing spirit of
 "the other party, (who have engaged the com-
 "mon people on their side,) has permitted us
 "to do so: because we were of opinion, that
 "these high pretensions were not only void
 "of foundation in truth and reason, but that
 "they were contrary likewise to good policy,
 "as they have an immediate tendency to
 "split the dominions of the crown of Great-
 "Britain into so many separate and indepen-
 "dant states, and destroy that happy union
 "and harmony that has hitherto subsisted be-
 "tween them. But we had never yet imagi-
 "ned, that Great-Britain had begun to envy us
 "the enjoyment of our assemblies themselves,
 "and to wish to have us governed intirely by

officers of the crown, without any share in
 the appointment of the legislatures of our
 respective provinces. But now we have
 reason to entertain this new and alarming
 suspicion. For an act of parliament is lately
 passed, in direct opposition to the king's
 proclamation of October, 1763, (which we
 had always looked upon as a sacred instru-
 ment, that was binding on the king and
 nation, and could not be repealed without
 a breach of the publick faith, but which
 this act has boldly rescinded and annulled
 by express words;) an act of parliament is
 passed, to *establish*, instead of *tolerating*, the
 popish religion in the province of Quebec;
 and to revive the French laws there in all
 matters of property and civil rights; and
 consequently, to resume, from both the
 French and English inhabitants of the pro-
 vince, the grant that had been made to them
 by the said proclamation, of the English
 laws concerning the writ of *habeas corpus*
 and the enjoyment of personal liberty, and
 concerning the trial by jury in all civil actions
 and of divers other beneficial laws of Eng-
 land;-----and to establish, instead of
 assembling

" assembly, (which had been promised them
 " by the said proclamation as soon as the state
 " and circumstances of the said province would
 " permit,) a legislative council composed of
 " persons nominated by the crown; and which
 " is not established for only a small number of
 " years, but is designed (for aught that appears
 " to the contrary in the act,) to be the perma-
 " nent mode of government for that province to
 " all future generations;---and lastly, (which is
 " a matter that concerns us more nearly than
 " all the rest,) to enlarge the boundaries of
 " the province of Quebec so as to take in the
 " five great lakes and all the immense and very
 " fruitful country contained between them and
 " the rivers Ohio and Mississippi, and which
 " lies at the back of our provinces; with a
 " view, as it should seem, that this new and
 " favourite mode of government, together with
 " the Roman-Catholick religion (now also, to
 " all appearance, become an object of favour
 " with Great-Britain,) should prevail through-
 " out all that vast country. What then can we
 " conclude from such an act of parliament,
 " (the passing of which would ten years ago
 " have been thought an impossible event;)

" but

" But that Great-Britain is now governed by
 " the counfels of a fet of men, who, going far
 " beyond the late Mr. Grenville's sentiments
 " in their plan of controuling these provinces,
 " intend not barely to reduce our assemblies
 " to their antient and constitutional condition
 " of inferiour legislatures, subordinate to the
 " fupream authority of the British parliament,
 " but absolutely to deprive us of them, and
 " govern us by legislative councils appointed by
 " the crown, in imitation of that which they
 " have juft now eftablifhed in this immense
 " new province, which they have erected at
 " the back of our fettlements?----And if this
 " be their design, it behoves us English Ame-
 " ricans, if we deferve the name of English-
 " men, and fet any value on the liberties we
 " now enjoy under the protection of our affem-
 " blies, to unite with heart and hand in de-
 " fence of them. In fuch a caufe we are ready
 " to venture any thing, even life itfelf, the
 " continuance of which cannot be pleafant to
 " us after the extinction of our liberty. We
 " muft, therefore, now at laft give up the
 " pleafing hopes which we, the fober and loyal
 " party in America, (who have acknowledged
 " the

“ the authority of the British parliament over
 “ us,) have hitherto entertained of seeing an
 “ an amicable conclusion of our present disputes
 “ with our mother-country, since she has so
 “ far forgot her parental affection towards us
 “ as to meditate to reduce us to a state of po-
 “ litical slavery : and we must henceforwards
 “ unite ourselves with our more violent brethren
 “ to carry on their schemes of independance
 “ on Great-Britain ; schemes which *they* have
 “ adopted from ambition, but which we shall
 “ accede to from the humbler, but not less
 “ cogent, motive of necessity, from a sense of
 “ the impossibility of preserving our former
 “ degree of liberty without it, after the dispo-
 “ sition which Great-Britain has manifested
 “ with respect to us by this surprizing act for
 “ the government of Quebeck.”

This was the language held about the autumn
 of the last year, 1774, by some of the most
 moderate Americans in the English provinces
 upon the passing of the late Quebeck bill : and
 accordingly we see that the opposition to the
 authority of the parliament is now become al-
 most universal throughout those provinces,
 hardly

hardly any persons in them having, since that time, appeared to have any inclination to acknowledge and support that authority except, as I before observed, the custom-house officers and other officers of government in America, who hold lucrative employments there at the pleasure of the Crown, and a few of the Church of England clergy who are most solicitous for the establishment of protestant bishops in those provinces.

FRENCHMAN.

I see plainly that the Quebeck-act is equally prejudicial to us Canadians and to the inhabitants of the English provinces in America. It is intended to keep us in a perpetual state of enmity against those provinces by means of the difference of our religions, and to make use of our assistance in subduing the rebellious inhabitants of those provinces to the obedience of the British parliament. But the British government will find themselves much mistaken in this

The Canadians are not disposed (notwithstanding their zealous attachment to the Ro-

policy. For we Canadians are not disposed to be so employed against our English neighbours; nor does the difference of our religious opinions inspire us with sentiments of hatred towards them. (notwithstanding their zealous attachment to the Roman-Catholick religion) to be employed in reducing the other Americans to the obedience of the British parliament.

them, after the humane and friendly treatment we have received from our English and protestant fellow-subjects in this province, as well as from the British government here, for the last fifteen years. We are, it is true, zealous Roman-Catholicks : but we are so, because we are bred up in that religion, and have no knowledge of any other ; and we have happily no antipathy to those who have been educated in other religious opinions, when we see that they are so candidly disposed to grant us the fullest liberty of professing our own. This fine-spun, but malignant, scheme, therefore, (which has been lately adopted by the British ministry,) of setting us at variance with our protestant fellow-subjects in the neighbouring provinces, will infallibly prove abortive. However, I do not wonder it has alarmed the English colonists in North-America : it ought naturally so to do : and I hope they will insist upon this act's being repealed before the present disputes with Great-Britain are brought to a settlement.

ENGLISHMAN.

You may depend upon it that they will insist on this as an indispensable preliminary article to any accommodation they may make with

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will insist on the repeal of the Quebec-act.

There is reason to expect that the English provinces in North-America

Great-Britain : and likewise on the repeal of the Boston-charter act. Without these two conditions they will listen to no terms whatever, unless they should be totally subdued by Great-Britain, which (from what we have observed before) does not seem likely to happen.

FRENCHMAN.

I am glad to hear you say that the English provinces will insist on the repeal of the Quebec-act as an indispensable article of their reconciliation with Great-Britain. For then I hope it will be obtained : whereas I doubt whether our poor Canadians would have courage and steadiness enough, (notwithstanding their great dislike of it) to unite and persevere in making the petitions to the king and parliament that would be necessary to procure a repeal of it. However, I hope that our sentiments upon this subject will be made known to the ministers of state and other persons of influence in England, (without our making a formal petition against the act,) by the testimony of such honest and impartial Englishmen as from time to time shall go from this country to England, who cannot but perceive how great and how generally we are displeased with it.

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ENGLISHMAN.

I doubt whether such representations as those (however respectable they may be, from the number and the characters of the persons who shall make them, and from the uniformity of their testimony) will ever procure the repeal of that obnoxious act; and am inclined to think that (if the other American colonies should take no notice of it) nothing less than strong and general petitions of the Canadians themselves will be sufficient for that purpose: if even those would be successful. So that your best chance of getting rid of this act seems to arise from the alarm which it has given to the English colonies and the resolution with which they seem determined to insist on its repeal.

FRENCHMAN.

Well; I hope they will succeed in their endeavours to obtain the repeal both of this act and the Boston-charter act. And then, if Great-Britain would add to these repeals a declaration of the kind we have before mentioned concerning the future taxation of America, namely, "that she will never impose any internal taxes upon them until they have been

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permitted

The repeal of the Quebec-act and the Boston-charter act, together with a resolution not to impose internal taxes

on the Americans, nor to dispose by act of parliament of the revenue produced by external taxes, but to leave it to the disposal of their assemblies, and together with an assurance that their charters should not be altered for the future without a charge and hearing, would be a good foundation for a conciliation between Great-Britain and North-America.

permitted to send representatives to the British parliament, and that, when she imposes any external taxes upon them, the revenue arising from such taxes shall be left to the disposal of the legislatures of the several provinces in which it shall arise, respectively," and some assurance that their charters shall not, for the future, be taken away or altered, without first bringing a formal charge in parliament, accompanied with proper proofs, of an abuse of the privileges contained in them, and a hearing of the provinces so charged in their own defence; I should imagine the Americans would be content to return to their former subjection to Great-Britain and acknowledge, or, at least, comply with, the authority of the British parliament upon all other subjects.

ENGLISHMAN.

I intirely agree with you in thinking that these are the grand preliminary articles on which a reconciliation with Great-Britain ought to be grounded, and without which there is no prospect of its taking place. But there are a few other points upon which it would be both easy and very prudent for Great-Britain to give the American

Americans satisfaction, and which otherwise may become the occasions of future disputes between the two countries. These points are; the lucrative places in America, which are executed by deputies; the quit-rents paid to the king by the holders of land in America; the establishment of protestant bishops in America; and the amendment of the constitution of the several councils of those provinces which have no charters, but are governed only by the king's commissions to his governours. If these points were settled to the satisfaction of the Americans, (as they might easily be without prejudice to the interests of Great-Britain,) I should imagine they would greatly contribute to a permanent reconciliation between Great-Britain and her colonies.

Some other points in which it would be expedient to give the Americans satisfaction.

FRENCHMAN.

In what manner would you propose that these matters should be settled? and what are the apprehensions the Americans entertain concerning them?

ENG.

ENGLISHMAN.

Of the lucrative civil offices in the American colonies, which are enjoyed by persons resident in England, and are executed by deputies in America.

Of the commission of provost-marshal in the province of Quebeck.

The first of these subjects, the lucrative employments under the government, which are enjoyed by persons resident in England, and executed by deputies, has occasioned frequent complaints in this very province, and particularly amongst the Canadians. How often have you heard your countrymen complain of the *frais de justice, et du bureau du secrétaire de la province*, and perhaps yourself joined with them in making these complaints? Now these are, in part, the effects of the manner in which the offices of provost-marshal and secretary of this province have been granted. In the year 1763, when a resolution was taken by the English ministers of state to establish a civil government in this province of Quebeck by granting to general Murray, (who at that time commanded in it, as the senior military officer on the spot,) a commission to be civil governour of it; but before such commission was received, or had even been passed, and consequently before any courts of justice, or other offices of civil government, were erected there by virtue of it; his Majesty was pleased to grant a commission under the

great

great seal of Great-Britain to an English gentleman of good estate in the county of Suffex, of the name of Nicholas Turner, (who had not the least intention of coming over to Canada,) to be provost-marshal of the *province of Canada*; for so this province is improperly called in this commission, though in the great commission of captain-general and governour in chief granted to general Murray, and likewise in the famous royal proclamation of October, 1763, (in which the king declared his intention of erecting a civil government in this province,) it is called *the province of Quebec*. This commission was dated on the 23d of September, 1763; which was before the dates both of the said commission of governour granted to Gen. Murray, and of the said royal proclamation. It was granted to this Mr. Turner for his life, with a power to execute it by one, or more, sufficient deputies, who should be resident in the province, and for whose faithful discharge of their duty he was to be answerable; and with such fees, profits, and advantages as were enjoyed by any other provost-marshal on the whole continent of North-America. By virtue of these last words Mr. Turner was at liberty to hunt out the largest table of

Of the fees which the provost-marshal was authorized by the said commission to demand.

fees that could be found in the richest provinces of North-America, (as for instance, in Pennsylvania, Virginia, or South-Carolina,) and make it the standard of those he was authorized to demand for himself in this poor province of Quebec, or, perhaps, to compose a new table of fees from the largest fees that should be found to be taken in several different provinces of North-America: for the words of this part of the commission are so loose and general, that it is difficult to ascertain their true meaning, as you will easily perceive when I repeat them. They are as follow; “ *with all fees, rights, profits, privileges and advantages whatsoever, thereunto belonging, in as full and ample manner as any other provost-marshal of any our provinces or colonies, in North-America does hold and enjoy, or of right ought to hold and enjoy, the same.*” Thus Canada (which was at that time a poor province, and in which the people had been used to pay very low fees of office of every kind; I mean such as were low even for a poor province;) was at once, in this negligent manner, made liable to pay as great fees as the richest province of North-America for every thing done in the office of provost-marshal

that is, in the execution of the judgements and orders of all the courts of justice in the province; and this for the private benefit of an English gentleman, who had no intention of coming over to Canada to execute the office himself, but who was permitted to farm it out to his deputies for the best price he could get. It is no wonder this proceeding was complained of by the Canadians.

Now the conduct which ought to have been pursued on this occasion was very obvious. An instruction should have been sent to governour Murray and the council of the province, to enquire in the first place, what were the fees paid by the people of Canada for the execution of the several processes of the courts of civil judicature and for the other branches of a pro-
tost-marshal's duty, in the time of the French government, and make a report of them to his Majesty; and, 2dly, to report their opinion concerning the fees which the said people could then afford to pay, and would readily consent to pay for those services; and, thirdly, what the annual amount of such fees would probably be; and, 4thly, whether it would be most

The conduct which government ought to have pursued on that occasion.

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convenient

convenient to have one provost-marshal, or sheriff, for the whole province, or to divide the province (which was very large) into two or three different districts (as in the time of the French government it had been divided into three districts,) and appoint a separate officer of this kind to each district; and, 5thly, whether, in their opinion, the amount of the fees which the Canadians had been used to pay under the French government, or which they could then easily afford, and would chearfully consent, to pay, would be sufficient to induce capable and responsible persons, resident in the province, and acquainted with the French as well as the English language, to undertake these offices; and, if these fees were not sufficient for that purpose, to report to his Majesty their opinion of the quantum of the salaries which it would be necessary to annex to these offices over and above the said moderate fees, in order to induce such capable and responsible persons to undertake them. When these things had been carefully inquired into, and fully reported to his Majesty, by the governour and council of the province, it would have been proper to appoint one or more provost-marshals, or the

riffs, (as should have been thought necessary,) who should have been constantly resident in the province and well acquainted with both the French and English languages, with moderate salaries, if necessary, and a power to make such very moderate fees as should have been set down in a list allowed by his Majesty's order in his privy-council for that purpose after the inquiry and report of the governour and council of the province above-mentioned; and without any power to make a deputy, except upon very particular occasions, as in cases of sickness; and then with the governour's licence. All this appears to me to be so plain, that I should have thought one hour's attention to the subject would have suggested it to any man.

FRENCHMAN.

I should have thought so too. And I heartily wish his Majesty's ministers of state in the year 1763, (when that commission of provost-marshal of this province was granted to that Mr. Turner,) had bestowed that one hour's attention upon it, and pursued the conduct you mention. It would have prevented thousands of complaints that have been made in this pro-

The fees allowed by the afore-said commission of provost-marshal were too great for the province of Quebeck.

vince concerning the exorbitant fees paid to that officer by those who were engaged in law-suits. For, as you well observed just now, the fees we were used to pay on these occasions in the time of the French government, were uncommonly low ; so that what might appear a very moderate fee to an English inhabitant of the province, has appeared to us an enormous one ; and besides, this province was one of the poorest in North-America at the time of granting that commission ; though it has since acquired a considerable quantity of gold and silver by the large exportations of corn that have been made from hence to Barcelona and other places in Spain for these ten or twelve years past under the mild administration of the English government and the protection of the English laws which took place here till the late Quebeck-act. And therefore at that time it was very unjust to require the people of this province to pay the same fees to the provost-marshal as were paid in the rich province of South Carolina. Not to mention the absurdity of expressing power of demanding fees of the king's subjects in such vague and general terms as those which are used in this commission, which do not refer them in a very loose and uncertain manner.

The clause of the commission which relates to the fees describes the quantity of them in a

to any one particular province of North-America, but to all of them together: which seems to make those words almost unintelligible, and ought, in my opinion, to make the whole commission void on account of its uncertainty.

ENGLISHMAN.

Your observation is very just. The words of the king's patents ought to be as clear and certain as possible, and ought to manifest a full knowledge in the king of the extent and value of the things he grants in them, whether they be lands, or rights and privileges of any kind. And, upon this principle, every patent declares the king to act "*ex certâ scientiâ*," that is, "of his own certain knowledge;" and where that is not the case, the king is considered in law as *having been deceived in his grant*, and the patent may be revoked. And this patent seems so liable to this objection, that I almost wonder the lord chancellor of Great-Britain of that time, (who was the earl of Northington, and who was reputed a man of abilities,) should have put the great seal to it. But we may suppose that, in the multiplicity of the business of his high station, he never read it.

The words of the king's grants ought to be as clear and certain as possible.

FRENCH.

FRENCHMAN.

It is unjust to establish such fees, for the business done in any office, as are sufficient to enable the principal officer to procure a deputy, who shall do the whole duty of the office, and pay the said principal an annual rent out of the profits of it.

But, if the patent had been ever so correct in the wording of it, and had even set forth a list of the fees which it had enabled the provost-marshal to demand, (as it ought to have done,); and if this province had been rich instead of poor; and these fees had been very moderate, and such as the Canadians could have afforded to pay; yet I should still have thought that the granting of this office to a person who was to reside in England, and to execute it by a deputy, would have been a wrong measure, and unjust towards the inhabitants of this province. For why should we Canadians be forced to pay a tax, (under the form and name of fees,) for the maintenance, or convenience, of an English gentleman residing in the county of Sussex? For every part of the fees we pay to any officer, beyond what is sufficient for a reward to the acting person who really does the duty of the office, is, in truth, a tax upon the subject for the support of an idle man: and, whenever the fees of an office are so great and so numerous that a proper and sufficient man can be found that is willing

to act as a deputy in the office for a part of the profits of it, and consequently to pay a farm-rent to the principal officer for the privilege of acting as his deputy, the fees of that office, (however small they may be,) are too great by just so much as contributes to produce the rent paid to the principal officer, and ought, in point of justice, to be reduced so far as to annihilate that rent.

ENGLISHMAN.

You now enter fully into my objection to these lucrative places in America, which are enjoyed by persons residing in England and executed by deputies who farm them. The Americans consider them in the light in which you have just now placed them, and complain of them as instances of the disposition of the British government to neglect the welfare and satisfaction of the American provinces, and to make use of them only as a fund for increasing the influence of the crown in gratifying its favourites in Great-Britain with lucrative and secure employments. This ground of complaint I would therefore fain see removed, by abolishing the patents that have been granted of these

offices

This objection is made by the Americans to the lucrative offices in their several governments, which are given to persons resident in England, and executed by their deputies in America.

And it ought to be removed, in order to give the Americans satisfaction.

offices to persons resident in Great-Britain, (I mean with proper compensations to the patentees for the loss of them,) and regulating the offices themselves in a manner that would be satisfactory to the Americans.

FRENCHMAN.

Of the office of secretary of the province of Quebec.

I think you mentioned the office of secretary of this province as having been granted to a gentleman in England with the like power of making a deputy, who should reside in the province and do the duty of it; and that that has been, in a great measure, the cause of the complaints that have been made in this province against the great fees that have been required of us for all the business done in that office. Pray, to whom, and in what manner, was this office granted, upon the establishment of the civil government of this province?

ENGLISHMAN.

It was granted to a gentleman of the name of Ellis, who had been governour of South-Carolina, and who was a great favourite of the late earl of Halifax, who was at that time one of his Majesty's secretaries of state. The patent

is dated on the 30th of April, 1763, that is, more than five months before the date of the proclamation of October, 1763, in which his Majesty declared his royal intention of establishing a civil government in this province, and consequently before it was known with certainty that such an office as that of secretary of the province would be necessary. And, lest the profits of the office of secretary of the province should prove too small to be worth an English gentleman's notice, three other offices of great importance in this province were granted to the same person by the same patent, to wit, the offices of clerk of the council of the province, commissary, or steward general, of the provisions and stores of the king's forces in this province, and clerk of the inrolments for the inrolling and registering all deeds and conveyances made in the said province, and also all bills of sale and letters patent, or other acts or matters usually inrolled, or which by the laws of that province should be directed to be inrolled.

Three other offices were granted to the same person by the same patent.

It seems rather strange to talk of matters usually inrolled in a province which hitherto had had no civil government in it since its sub-

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A remark on the inaccurate wording of the patent

jection to the crown of Great-Britain. But such are the words of the patent; by which you may see how negligently matters of this kind were transacted.

A power was given in the patent to execute the said offices by deputy.

They were, accordingly, farmed out to a deputy for 300l. a. year.

Of the fees to be taken in these offices.

All these four offices were given by this patent to the said gentleman to hold during his natural life, with a power to execute them by one or more sufficient deputies, who should reside in the province, and for whom he should be answerable. And, accordingly, Mr. Ellis soon after farmed them all out to a deputy, (who was resident in this province,) for the sum of £.300 sterling a year.

The clause about the fees to be taken in these offices seems to be less liable to exception than the clause upon that subject in the commission of the provost-marshal; because it seems rather to refer to such fees as shall be thereafter established in the province by some sufficient authority, (it does not say, by *what* authority;) than to authorize the patentee to take the highest fees he can find to be taken in the like office in any of the provinces of North-America, as done in that other patent. Yet the words of

are much too vague and uncertain, as I believe you will readily agree with me, when I repeat them to you. They are as follows. "*With all the salaries, fees, profits, perquisites, and advantages whatsoever to the said offices and places, or any of them, jointly or severally in any wise belonging, or which are or shall be established, or allowed, for, or in respect of, the exercise, or execution of the said offices and places respectively, in as full and ample manner, to all intents and purposes, as any other secretary, or clerk of the council, of any of our provinces of North-America does hold and enjoy, or of right to hold or enjoy, the same.*" You see here another instance of negligence. The two other offices, of commissary of the stores, and clerk of the inrolments of deeds and conveyances, are intirely omitted in this clause concerning the fees and perquisites.

The clause of the patent relating to the fees.

FRENCHMAN.

Indeed this seems to be a strange omission: and with respect to the fees to be taken in the two offices of secretary of the province and clerk of the council, it seems doubtful to me whether this clause (which, though very verbose, is wonderfully obscure,) was not intended

A conjecture concerning the meaning of the said clause.

to give the patentee a right to take all the fees that were taken by persons who held the same offices in any of the provinces of North-America, and also to take such other fees as should be established, or allowed, in this province for other matters that might not be transacted in other provinces, or for which, (if they were transacted there) it might happen that no fees were taken.

ENGLISHMAN.

Perhaps this may be the true meaning of these words. But it is certain they are much too vague and obscure, and shew that very little regard was paid, at the time of granting that patent, to the convenience and circumstances of the inhabitants of this province, or to any thing but the interest of the patentee. Accordingly you well know that the fees of the office of secretary of this province and of the office of clerk of the inrolments, or (as it is more frequently called,) of register of the province have been much complained of by the Canadians, as intolerably heavy.

FRENCH

FRENCHMAN.

Oh! universally, and most justly: for they were often found to be much too large for the abilities of us poor Canadians. But I hear that these offices are now going to be put under a better regulation by the care and direction of our governour, general Carleton. Pray, is this true?

ENGLISHMAN.

It is. General Carleton, having been much affected by the frequent and loud complaints made to him by the Canadians against the fees taken in these and the like offices, and finding that no redress could be given to them by his authority as governour of the province, by reason of the permanent interest which the holders of these offices had in them for their respective lives by these patents under the great seal of Great-Britain, did, when he was lately in England, recommend it strongly to the king's ministers of state, to procure these patents to be abolished, and give the patentees adequate pensions for their lives in lieu of them. And this wholesome advice has been taken, and the thing done,

The afore-
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were abo-
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done, though in a manner which was not quite consistent with the respect that was due to the two houses of the British parliament.

FRENCHMAN.

Pray, what was the manner of doing it?

ENGLISHMAN.

The remarkable manner of the said abolition.

It was a manner of proceeding that you would never have thought of for such a purpose. It was by drawing in the House of Commons and House of Lords to abolish these patents under the great seal of Great-Britain by three or four general words in a clause of the Quebec-bill, without knowing what they were about, or that such patents were intended to be abolished, or that the patentees had consented that they should be abolished, or had received satisfactory compensations for the abolition of them, or, perhaps, that any such patents had ever been granted. The preamble to the second great enacting clause of the Quebec-bill states, "that the provisions made for the government of the province of Quebec by the royal proclamation of October, 1763, and the powers and

and authorities given to the governour and other civil officers of the said province by the grants and commissions issued in consequence of the said proclamation, had been found, upon experience, to be inapplicable to the state and circumstances of the said provinces;" and then the said enacting clause enacts, " That the said proclamation, so far as the same relates to the said province of Quebec, and the commission under the authority whereof the government of the said province is at present administered, and all and every the ordinance and ordinances, made by the governour and council of Quebec for the time being, relative to the civil government and administration of justice in the said province, and all commissions to judges and other officers thereof, be revoked, annulled, and made void, from and after the first day of May, one thousand, seven hundred, and seventy-five." In this clause, under the words "*other officers thereof*" come our friends the provost-marshal and that multiform officer, the secretary of the province, clerk of the council, clerk of the inrolments, and commissary of the stores, and another patent-officer of less importance, called *the naval officer*. But, I dare say, very few

few members of either house of parliament suspected that any of the commissions hereby vacated were beneficial patents for life under the great seal of Great-Britain. They would otherwise, most certainly, have inquired whether the patentees of such offices were contented that their patents should be vacated, and were satisfied with the compensations they were to receive in lieu of them. But no such inquiry was made, and not a word was said about them. It is true indeed that one of these patentees, Mr. Turner, the provost-marshal, died just a little before the Quebeck-bill passed, but, (if I remember right,) after it had been brought into the House of Lords. But the other two, that is, the secretary of the province, and clerk of the council, &c. who was one Mr. Roberts, (governour Ellis, the original patentee of these offices, having resigned them some years before, upon a private agreement with Mr. Roberts, and a new patent for them, under the great seal of Great-Britain, having been granted to the said Mr. Roberts,) and the naval officer, were still alive. Yet no information was given to either house of parliament that such officers were either dead, or alive, or had resigned their offices.

offices, or consented that they should be abolished in consequence of reasonable compensations received, or to be received, in lieu of them, nor even that such offices had ever been granted for life by patents under the great seal; but they were artfully drawn in to abolish these patents, without knowing it, under the general words above-mentioned, "*other officers thereof.*" Now this I consider as a great *indecorum*, in the conduct of the persons who framed and brought in that bill, with respect to both houses of parliament.

FRENCHMAN.

A very great one indeed! and such as I should never have suspected! I hope, however, that the patentees had reasonable compensations made them in private for the loss of their offices, tho' I think it was originally wrong to grant them such offices.

ENGLISHMAN.

I have been well assured that the said secretary of the province, and clerk of the council, &c. and the said naval officer have, both of them, received ample compensations for the

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loss of their patents: so that the proceeding has not been injurious to them, though justly liable to censure on account of its disrespectfulness to the two houses of parliament.---But I hope you now conceive the objections which the Americans entertain against the lucrative places in their respective provinces, which are granted for life to persons resident in Great-Britain, and executed in America by deputies; and why I wish to see those grants abolished.

FRENCHMAN.

I conceive those objections most clearly; and I think them very justly founded; and therefore join most heartily with you in your proposal of abolishing these grants, which would, doubtless, give great pleasure to the Americans. And I further think that it would be proper to take care never to give more than one of these offices to one person, even when they are given (as, we before agreed, they ought to be) to persons resident in the provinces where they are held, and without a power of appointing a deputy, except in certain extraordinary cases, and then with the governour's licence. For surely an office is more likely to be well

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executed when it is the only office of the person who holds it, than when it is one amongst many that are enjoyed by the same man, and can therefore claim only a part of his time and attention. Not to mention that the monopoly of offices under government is always odious in itself, (even if the duty of them were to be perfectly well executed,) and gives room to envy and discontent.

ENGLISHMAN.

Your observation is perfectly just. And I therefore should be glad to see a provision made by authority of parliament that no two of these places should be held by the same person. I am so inclined to think that most of these offices should not be given away by his Majesty's own appointments, but by those of the governours of the several provinces to which they belong; because these governours are much more likely to know who are the fittest persons, resident in their respective provinces, to discharge the duty of these offices, than his Majesty's secretaries of state, or other ministers of state, in England, on whose recommendations his Majesty's appointments to offices are usually made.

Most of these officers should be appointed by the governours of the provinces, and not by the king.

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But,

They should not be liable to be removed, or suspended, by the governours alone, but by the governours with the consent of the majority of the councils of the provinces, or by the king in his privy council.

The fees to be taken for the future by these officers should be settled by the assemblies of the provinces.

Of the compensations to be made to the patentees of these offices.

But, when once these civil officers were appointed by the governours, it might be expedient that they should hold their places with some degree of independance on them, and not be liable to be either removed from their offices, or suspended from the exercise of them, at the pleasure of the said governours alone, but only by an order of the governour and council of each province conjointly, by a concurrence of a majority of the whole number of its members with the governour, or by his Majesty's own order in his privy council.

And, as to the fees to be taken by these officers, they ought to be settled by the assemblies of the severall provinces in which they are to be paid, they being a sort of tax upon the people.

FRENCHMAN.

This would certainly be a very just and satisfactory regulation with respect to the Americans. But would not the compensations that must be given to the patentees for the loss of their offices, amount to a considerable sum of money per annum? And out of what fund ought they to be paid?

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ENGLISHMAN.

As the design of such a measure would be to promote a reconciliation between Great-Britain and her American colonies, (which would be an event of the utmost advantage to Great-Britain,) I would have these compensations to the patentees charged on the revenue of Great-Britain. What they would amount to, I cannot say with any certainty. But I should think they could not exceed twenty thousand pounds sterling per annum while all the patentees remain alive; which, though it is a considerable sum of money, will make but a small part of the first year's expence of the civil war we seem likely to enter into with these colonies. And in a few years it would be annihilated by the deaths of the patentees. That consideration therefore ought to be no objection to this measure, if in other respects it deserves to be adopted. What I therefore would propose upon this subject, (to bring the whole into one view;) is as follows.

In the first place to require the several persons who have patents under the great seal of Great-Britain for their lives, or during their good behaviour, of any of the following places in any of the British colonies or provinces in North-America,

The whole regulation recommended on this subject.

America, or the West-India islands, to wit, the place of secretary of a province, or clerk of the council of a province, or clerk of the inrolments of deeds and conveyances, or commissary, or steward, of the provisions and stores of the king's forces in the same, or provost-marshal, or sheriff, of the same, or naval officer of the same, or coroner of the same, or register of the court of Chancery in the same, or clerk of any court of justice in the same; or of any other civil employment in the same, by virtue of which fees are taken from the inhabitants of the said province; to deliver in upon oath to the British House of Commons an account of the profits they have received from their said offices respectively during the last seven years, and to set forth the several particulars from which those profits have arisen, as well as they are able, and the rents at which they have let their offices to farm to their several deputies, and to give full answers to all questions that shall be asked them by any members of the House of Commons concerning the said offices.

Secondly, After this inquiry into the nature and profits of these offices, to pass an act of parliament to vacate all the said patents and settle

settle upon the several patentees pensions for their lives, payable out of the sinking fund, producing, (clear of all taxes and other deductions,) sums equal to the yearly value of the rents received by the several patentees, from the deputies who have farmed their offices of them, upon an average during the last seven years.

Thirdly, To enact in the same act of parliament, that the said offices shall never more be granted to any persons for their lives, nor with a general power to execute them by deputy, but shall be given only to persons residing in the province, without any power to appoint a deputy, unless in case of grievous sickness, and then with the governour's licence, and for a term not exceeding three months.

Fourthly, To provide in the same act that no fees shall be taken for the future by the persons who shall be appointed to the said offices, but such as shall be appointed and allowed by the general assembly of the province in which they are to be paid.

Fifthly,

Fifthly, To provide in the same act that no two of the said offices shall, under any pretence whatsoever, be holden by the same person; and, consequently, that the acceptance of a second office by a person who is possessed of one of these offices before, shall operate as a resignation of the first office.

Sixthly, To provide in the same act, that the offices of secretary of the province, clerk of the council of the province, register of the court of Chancery, clerk of the inrolments of deeds and conveyances, provost-marshal, or sheriff, and coroner, in every province, shall be granted by the governour of every province by a commission under the publick seal of the same, of which he (by his commission of governour) is the keeper; and that they shall hold their said offices without being liable to be either removed from the same, or suspended from the exercise of the same, by the governour of the said province alone, but shall be liable to be removed therefrom by the governour and the council of the said province conjointly, provided that a majority of the whole number of the members of the council, (including the absent members as well as those that are present

shall concur with the governour in such a motion; and likewise they shall be liable to be removed by the king's majesty by his order in his privy-council.

Seventhly, To provide in the same act for the appointment of the other officers of the province, who perhaps ought not to be appointed by the governour. I am inclined to think that the clerks of the severall courts of justice ought to be appointed by the judges of those courts, or the chief justice of each, as is the practice in England; and that the receiver-general of the revenue, and the collector and comptroller of the customs, and the naval officer, ought to have no sort of dependance on the governour, but to be appointed by the king himself, or the lords of the treasury, or some other of his Majesty's ministers in England. But, whether these opinions are well or ill founded, at least it ought to be clearly ascertained in the act, by whom these other officers should be appointed, and with what tenure in their offices; to the end that all future abuses may be prevented.

Bbb

Eighthly,

Eighthly, It should be provided in the same act, that no place, or office, in any of the colonies, or provinces, of North-America or the West-Indies, should upon any occasion, or under any pretence, be granted in reversion; as nothing can be more absurd and liable to abuse than this practice of granting places in reversion.

And, ninthly, It should be provided in the same act, that no place, or office, whatsoever in any of the said colonies, or provinces, should be granted even in possession to any person under the age of five and twenty years: because the giving employments of consequence to boys, or very young men, through favour, very much degrades the dignity of government.

You now see in one view the whole of what occurs to me as fit to be done upon this subject of the lucrative offices in America, in order to give the Americans satisfaction.

FRENCHMAN.

I understand your proposal perfectly, and intirely approve it. It would be doing for all the colonies in America and the West-Indies in a publick, deliberate, authentick manner

with the consent and satisfaction of all the parties concerned, what has been done already, (though in a clandestine way,) by general Carleton's good advice, with respect to this province of Quebec by the clause in the Quebec-act which abolishes the patent-offices above-mentioned. And it would add to that measure, (which, I hope, will prove beneficial to this province,) many other regulations concerning the civil offices held in America, which have not been made in this province, but which seem necessary to prevent other abuses and complaints with respect to them; more especially the settlement of the fees to be taken in them by the assemblies of the provinces in which they are to be paid. Nothing can be *more just* than this, nor tend more to give the Americans satisfaction.

End of the consideration of the lucrative civil offices in America, which are executed by deputy.

But, I think, you mentioned ^{se} some other articles, in which you wished Great-Britain to make some condescensions for the further gratification of the Americans, and particularly with respect to the quit-rents paid to the Crown by the owners of land in America. I beg you would inform me what those quit-rents are, and what you would wish to see done with them.

Of the quit-rents due to the Crown in North-America.

ENGLISHMAN.

That I can easily do, as the subject lies in a very narrow compass. You must know then that in all the English provinces in North-America, except Pensylvania and Maryland, the lands are all holden immediately of the king, without any intermediate lord, or seignior. And they are almost all (for I believe there may be a few exceptions,) obliged to pay him a very small yearly quit-rent for the lands they so hold of him, by virtue of a reservation of such quit-rent in the original grants by which they hold them. This quit-rent is usually only two shillings sterling, for every hundred acres of land, which is nearly one farthing per acre, that is, (in your money,) about half a French sol per acre. This is certainly a very easy quit-rent; but, easy as it is, I am told, it is very negligently paid, and sometimes complained of by the Americans. It is said to produce to the Crown about fifteen thousand pounds *per annum*; which is the quit-rent due, (according to the foregoing rate,) upon fifteen millions of acres, one million of farthings (which is the rent due for one million of acres,) being nearly equal

equal to a thousand pounds. Now the Americans are apt to complain that this money is carried out of their country for nothing, and serves only to fill the king's privy-purse, without producing any benefit to the industrious land-holders who pay it; whereas it ought, say they, in point of justice, to be spent in America, in the provinces in which it respectively arises, in matters of publick benefit to the inhabitants of the said provinces, as for instance, in paying the governours and judges, and other officers of civil government, in them. This may, perhaps, be too rigid a way of reasoning upon this subject; since it seems to be as reasonable that the Americans should contribute something to the king's privy purse and household expences as that their fellow-subjects in Great-Britain should do so; and these quit-rents are a very easy contribution for that purpose. But, in order to remove every shadow of injustice, and every possible ground of complaint, upon this subject, I would have the king give up these quit-rents and all other royal dues he may be intitled to receive in America, to the several provinces of America in which they arise, to be applied to publick uses in the said provinces, such

Complaints of the Americans concerning the said quit-rents.

A proposal concerning the said quit-rents, with a view to the satisfaction of the Americans.

such as the payment of the salaries of the governours and judges, and sheriffs or provost-marshals, and coroners, and other officers of justice and civil government in the same, so as to lessen the taxes which it might be necessary for the governours, councils, and assemblies of the said provinces, respectively, to lay on the inhabitants of the same for the said purpose. And, when this was done, instead of having a person resident in England appointed to be the receiver of all the king's quit-rents in America, (as has hitherto been the practice,) a separate receiver and collector of the said quit-rents and other royal dues, should be appointed in every separate province, either by the king's majesty, or the governour of the said province, who should hold his said office only during his residence in the said province. But, as it is indisputably his Majesty's prerogative to settle the proper salaries and rewards of the officers of civil government in all the dominions of the Crown, the portions of the amount of these quit-rents in every province that should be assigned to the governour and judges and other publick officers in the same, should be such as his Majesty, in his royal wisdom, should think fit to appoint.

And

And it should be provided further, That no governour, judge, or other officer of the civil government of any of the said provinces in which such quit-rents should be paid, should receive any part of the salaries arising from these quit-rents, or other royal dues, during the time of his absence from the said province, or (after his return to the province) in consideration of his having held the said office during such absence; but that so much of his said salary (arising from the said quit-rents and other royal dues,) as would have accrued to him in the said space of time, if he had resided during the same in the said province, shall be deemed to be forfeited by his said absence, and shall make a part of the publick treasure of the province, and be disposed of by the joint act of the governour, council, and assembly of the said province.

By means of this provision it would become difficult to convert the offices of governour, chief justice, and the like, into sinecure places for persons residing in England, while the duty of them should be executed by lieutenant-governours, or puisney judges, or other deputies
or

or substitutes; as was the case a few years ago with the office of governour of Virginia, after the inhabitants of that province had, in their general assembly, granted a handsome permanent salary of £.3000 sterling a year for the support of it, and as is now the case with the offices of governour of the island of Guernsey and of governour of the island of Jersey on the coast of Normandy, much to the dissatisfaction of the poor people of those islands, who have no means of getting this matter redressed. And yet, you will observe, this provision would leave a possibility of a governour's, or other civil officer's, being absent from the province, during a reasonable time, for some just and urgent reason, without losing this portion of his salary; because it would be in the power of the assembly to make him a grant of the said portion of his salary after his return to the province by concurring in a joint act for that purpose with the governour and council of the province.

The receiver of these quit-rents should not be removed from his said office at the pleasure of the governour alone, but only by the governour and council of the province conjointly

by the concurrence of a majority of the whole council (the absent members included) with the governour, in such a motion, or by the order of the king himself in his privy council.

And, to prevent any objection that might be made to this appropriation of the quit-rents of America to the publick uses of the several provinces in which they are paid respectively, which might arise from the consideration of its causing a diminution of his Majesty's revenue, I should be glad to see the whole fifteen thousand pounds *per annum*, to which they are said to have amounted, or the whole sum, (whatever it be,) to which they did amount in any one year since they have been established, made good to his Majesty out of the revenue of Great-Britain. This would be a great concession from Great-Britain to the American colonies, but such as it would be very well worth her while to make for the sake of a reconciliation with them. It would be a gift to them of less than the annual interest of half a million of pounds sterling, that is, in all probability, of only one month's expence of the approaching most destructive civil war.

The amount of the said quit-rents should be made good to the king out of the revenue of Great-Britain.

Ccc

FRENCH-

FRENCHMAN.

I intirely approve this proposal, which, if not a matter of justice with respect to the Americans, upon the supposition that those quit-rents were originally reserved for the purpose of maintaining the civil governments of the several provinces in which they arise, (which seems probable) is, at least, a very prudent piece of generosity, and is excellently well calculated to remove that jealous apprehension which you represented the Americans to be possessed with, that the governing powers in Great-Britain were perfectly indifferent to their welfare and satisfaction, and disposed to consider and treat them only as a fund for increasing the revenue of the Crown and the means of gratifying its favourites with pensions or sinecure employments. To remove this ugly suspicion I take to be a matter of great importance in the present alarming crisis, and almost as necessary as to guard against more substantial grievances.

E N C

ENGLISHMAN.

Your remark is very just, and agrees with what was said not long ago by that great minister of state, the Earl of Chatham. He told the House of Lords in a debate last winter upon the present state of America, that they must not only repeal some of the obnoxious acts of parliament which they had lately passed against the Americans, (and particularly the Boston-charter act and the Quebeck act,) but they must *repeal the animosity* that subsists between the people of the two countries, which those acts and the other measures of Great-Britain with respect to America had given rise to. This has generally been thought to be a very wise and true saying of that great man, and to have been expressed with his usual happy energy of diction. And it is in pursuance of the whole advice it contains, that I could wish to see the above concessions made by the British government to the Americans as a proof that they had repealed some of their own animosity against the Americans, and an inducement to the Americans to repeal some of theirs against Great-Britain.

Of the necessity of recovering the good will and confidence of the Americans.

FRENCHMAN.

Of other
royal dues
in America,
besides the
quit-rents.

I observed that, besides the quit-rents due to the king from the proprietors of land in America, you just now mentioned some *other royal dues there*. Pray, what are those other royal dues, which you would have to be given up by the Crown for the benefit of the provinces in which they arise? Are there many of them, and of any considerable value?

ENGLISHMAN.

I believe there are very few, if any, such other royal dues, except the fifth part of the gold and silver which may be found in any mines there. And no such mines have hitherto been discovered. But, as I am not sufficiently informed of all the royal rights in America, I added those words concerning *other royal dues there*, in order to comprehend all such profits arising in America, and especially in North-America, as may be found to belong to the king alone, so as to be wholly at his Majesty's disposal, in contradistinction to such revenues arising in the said country, as may be already appropriated

appropriated by the British parliament, or by the assemblies of the provinces in which they arise, to some publick uses. For all profits of the former description, (or that are intirely at the king's disposal) are, (in my estimation,) of the nature of quit-rents, and should be surrendered up, as well as the quit-rents, to the provinces in which they respectively arise, to be there applied to publick uses for the benefit of the said provinces.

And, indeed, it would be a considerable improvement of this proposal, if the four and an half per cent. duty upon sugars and other commodities exported from several of the West-India islands, which is now paid to the Crown and disposed of intirely at the pleasure of the Crown, were in like manner to be given up to the several islands in which it is paid, to be therein applied (as it was originally intended to be applied) to the maintenance of the civil governments of the said islands or to other publick uses for the benefit of the same. But this, though in itself a just and proper measure, does not seem to be necessary towards the present object of a reconciliation between Great-Britain and the provinces of North-America.

Of the duty of four and a half per cent. paid to the Crown upon goods exported from some of the West-India islands.

FRENCH-

FRENCHMAN.

Though such a measure may not be absolutely necessary to a reconciliation between Great-Britain and North-America, yet surely this is a most convenient season for rectifying every publick abuse relating to every part of America. I therefore beg you would explain to me what this four and a half per cent. duty is, how it was originally created, and to what purposes it is usually applied.

ENGLISHMAN.

I am afraid I shall not be able to give you all the satisfaction you may desire upon this subject, not being perfectly acquainted with it myself in all its circumstances. However, I will endeavour to give you all the information I have myself received upon it, and which is principally derived from an account which I have seen of a famous action at law which has lately been decided by the court of King's Bench in England. This action was brought concerning the payment of this duty of four and a half per cent. upon all dead commodities exported

ported from the newly-ceded French island of Grenada in the West-Indies, in which a strange attempt had been made in the year 1764 to impose it on the inhabitants by means of the king's prerogative alone, without the interposition of either the British parliament, or the assembly of the freeholders of the island. This cause is usually called the case of *Campbell* and *Hall*, from the names of the plaintiff and defendant in it. It was finally determined on the 28th of last November, 1774, by Lord Mansfield, the chief justice of the King's Bench in England, and Mr. Justice Aston, Mr. Justice Willes, and Mr. Justice Ashurst, the three other judges of that court, in favour of the plaintiff Campbell, who had been illegally compelled to pay this duty upon a certain quantity of sugar which he had exported from Grenada.

An attempt was made in the year 1764 to impose this duty on the inhabitants of the conquered island of Grenada by the king's prerogative.

In the course of this cause it appeared that the said duty of four and a half per cent. had been paid to the Crown for many years past in the island of Barbadoes and in the Leeward Caribbee islands, that is, in the islands of Nevis, Saint Christopher, Antigua, and Montserrat, by virtue of acts of assembly passed in the said islands

This duty had been paid for about an hundred years past in the Leeward Caribbee islands, in consequence of grants made of it by the assemblies of those islands.

islands respectively; the occasions of passing which were as follows.

An account
of the
granting of
this duty
by the as-
sembly of
Barbadoes.

The island of Barbadoes in the West-Indies had been granted away by letters patent under the great seal of England, (while it was yet uncultivated and unpeopled, except by its few original inhabitants, the wild Caribbees,) by king Charles I. in the peaceable part of his reign, (or before the great civil war in England,) to the earl of Carlisle of that time, to be held and enjoyed by him, the said earl of Carlisle, and his heirs and assigns for ever, of the king of England, and his heirs and successors; much in the same manner as the country of Maryland in North-America was granted by the same king Charles in the year 1632 to the lord Baltimore, and his heirs and assigns, and Pennsylvania was granted by king Charles II. in the year 1682 to William Penn, the Quaker, and his heirs and assigns. And the said earl of Carlisle was impowered, in the said royal grant to under-grant parcels of land in the said island to other persons, to be holden by them and their heirs and assigns for ever, of the said earl, his heirs and assigns; as was the case with the

said lord Baltimore and William Penn, who
 had the like power given them, in their re-
 spective royal grants, to make under-grants of
 parcels of the land that had been granted to
 themselves, to other persons and their heirs, to
 be holden of themselves. By virtue of this
 power of under-granting the lands of Barba-
 does, the said earl of Carlisle did grant away
 divers parcels of land in that island to such per-
 sons as were willing to undertake the cultivation
 of them, reserving to himself such rents and
 payments as he thought proper; of which a
 payment of forty pounds of cotton per head
 seems to have been the most important. But
 some of these grants were afterwards lost; and
 others of them were improperly expressed,
 through the ignorance of the persons who were
 employed to draw them, so as often to want
 legal and sufficient words to create estates of
 inheritance to the grantees and their heirs: and
 others of them were never recorded in the
 publick records of the island, as they ought to
 have been: so that the titles of the persons
 who held lands in the said islands by virtue of
 these grants became, in the course of a few
 years, extreamly dubious. And other persons,

D d d

during

during the confused times of the civil war, (which came on a few years after the making of this grant to the earl of Carlisle,) occupied and cultivated lands in the island without ever having had any grants of them at all from the earl of Carlisle, or his heirs, or assigns. This created a good deal of confusion and uneasiness on the island about the year 1660, or 1661, soon after king Charles II. had been restored to the throne of his ancestors; as a remedy to which the following course was taken. The king bought in, of the heirs of the said earl of Carlisle, all the rights that had been granted to the said earl in the said island by the aforesaid patent; and, being thus invested with the property of the said island, (so as to be the immediate upper lord, of whom all the lands in it were holden,) as well as the right of governing it, he gave a commission under the great seal of England in the month of June in the year 1663, that is, about three years after his restoration, to Francis, lord Willoughby of Parham, to be captain-general and governour in chief of Barbadoes and of all the Caribbee islands with full power and authority to confirm, and assure to the inhabitants of the same, and their

heirs

heirs for ever, all the lands and tenements, to which they had a reasonable claim from possession, or otherwise, under his Majesty's great seal appointed for Barbadoes and the rest of the Caribbee islands, notwithstanding the legal imperfection of their titles to them.

In pursuance of this power, granted to the said lord Willoughby by his said commission, that nobleman consulted with the council and assembly of the said island of Barbadoes, how to remedy the evils arising from the present imperfect state of the titles of the inhabitants to their lands, and likewise from the tenures and services by which those lands were held : and it was agreed amongst them ; in the first place, that all the lands of which they were then in quiet possession, should be holden by them for the future of the Crown, to them and their heirs for ever, in the same manner as if they had had regular and proper grants, duly recorded in the proper offices, to shew for them ; and, in the second place, it was agreed that the aforesaid payment of forty pounds of cotton per head, (which had been found to be a heavy tax upon the first settlers there,)

D d d 2

should

should be abolished ; and that all other rents and payments which had been reserved by the earl of Carlisle, or under the authority of his patent, should also be abolished, and all arrears of them remitted to the inhabitants ; and that their lands should for the future be holden of the Crown without any other rent than one ear of Indian corn to be paid every year, for every parcel of land holden in the said island, at Michaelmas, if then lawfully demanded ; and in the third place it was agreed, that a duty of four and a half per cent. should be paid to the king, and his heirs and successors for ever, upon all dead commodities of the growth and produce of the said island of Barbadoes that should be shipped off the same.

And these resolutions were drawn up into the form of an act of assembly of the island of Barbadoes, and passed by the said lord Willoughby, the governour, and the council and assembly of the said island in the month of September, 1663.

The clause of the act of the assembly of Barbadoes by which this duty of four and a half per cent. was granted to the Crown.

The clause in this act of assembly which grants the aforesaid duty of four and a half per cent. upon all dead commodities shipped off from the island.

island, is in these words. “ *And, forasmuch as nothing conduceth more to the peace and prosperity of any place, and the protection of every single person therein, than that the publick revenue thereof may be in some measure proportioned to the publick charges and expences; and also well weighing the great charges that there must be of necessity in the maintaining the honour and dignity of his Majesty’s authority here; the publick meeting of the sessions; the often attendance of the council; the reparation of the forts; the building a sessions house and a prison; and all other publick charges incumbent on the government: WE DO, in consideration thereof, GIVE and GRANT unto his Majesty, his heirs and successors, forever, and do most humbly desire your Excellency to accept these our grants: And we humbly pray your Excellency that it may be enacted: AND BE IT ENACTED, by his Excellency, Francis, Lord Willoughby, of Parham, captain general and chief governour of this island of Barbadoes and all other the Caribbee islands, and by and with the consent of the council and the gentlemen of the assembly, representatives of this island, and by authority of the same, That an impost, or custom, be, from and after the publication hereof,*

raised

raised upon the native commodities of this island, after the proportions and in manner and form as is hereafter set down and appointed, that is to say, upon all dead commodities of the growth or produce of this island, that shall be shipped off the same, shall be paid to our Sovereign Lord the King, his heirs and successors for ever, four and a half in specie for every five score."

Of the manner of passing bills for granting money to the crown both in Barbadoes and in Great-Britain.

By this clause you may observe the form of acts of assembly for imposing taxes on the people of this island to be the same as, in the former part of our conversation, I informed you was used for the same purpose in the British parliament, to wit, that of a gift and grant made to the king from the representatives of the people, in behalf of the people, and consented to by the council of the province, and accepted by the governour in behalf of the king, and afterwards enacted as a law, or ordained by words of an imperative and legislative import, by the joint authority of the said governour, council, and assembly, in consequence of such previous grant of the assembly, consent of the council, and acceptance of the governour. This is not an insignificant piece of form: for

it shews that all taxes are, by the constitution of the British government in that island of Barbadoes, to be considered as the free gifts of the people, and are therefore to begin in the assembly of their representatives, and ought not to be first proposed to them either by the governour or the council. The same observation is true of the British House of Commons.

That great assembly of the representatives of the people of Great-Britain claims and exercises the same right of originating all bills for imposing new taxes on the subjects of the Crown, or whereby any money can be drawn from them in any collateral way, however indirect, and makes it a constant rule to reject every bill for any such purpose, (however reasonable in itself, or expedient to the welfare of the kingdom, it may happen to be,) that is sent down to them from the House of Lords for their consent. Nay, they carry this privilege still further. For, when they have themselves prepared a tax-bill, and sent it to the House of Lords for their consent, they will not permit the Lords to make the smallest alteration in it, not even though the alteration should tend to lessen, instead of adding to, the proposed tax,

Such bills
ought to
take their
rise in the
House of
Commons.

nor

nor even though it should no way affect the tax, but be merely a change in some of the less material words of the bill: and, if the Lords attempt to make any alteration in a bill of this kind, it is sure to be rejected by the Commons when it is sent down to them by the Lords for their consent to the alteration. So that the House of Lords can no farther interfere with respect to the passing of tax-bills than simply to consent to them or to reject them. Such is the jealousy of the House of Commons with respect to this important privilege. And yet, most strange as it must seem, it is nevertheless true that in the case of the Quebec-bill they departed from this most sacred rule. So great was the infatuation that prevailed at the time of passing that obnoxious act!

This rule was departed from in the case of the Quebec-act.

FRENCHMAN.

That is indeed a strange event. I should have thought that the British House of Commons would never have given up so favourite and important a privilege, even for the sake of the most beneficial act that could be proposed to them, and much less for an act of so dangerous, or, (to say the best of it,) of so doubtful

ful a tendency as the Quebec-act. I beg you would therefore inform me in what manner this privilege of the House of Commons was given up, or departed from, in the passing of that unhappy act.

ENGLISHMAN.

It was in truth departed from, but not formally given up: for the majority in the House of Commons pretended that it was not affected by the Quebec-bill, tho' no tolerable answer was ever given to the objections made to the bill upon this ground by Mr. Charles Fox, which were stated and urged by him with all that clearness and strength of reasoning for which he is so eminently distinguished. The whole proceeding was as

follows. The Quebec-bill (for what reason, never could learn,) was begun in the House of Lords, where it is said to have been opposed by only a few of the temporal lords, but not at all by the bishops, notwithstanding it established popery throughout the province of Quebec, by giving the priests a legal right to their tithes, and at the same time extended the province to so great a degree as to comprehend more than half the king's dominions in America,

E e e

throughout

The Quebec-bill begun in the House of Lords.

It passed that house without any opposition from the bishops, notwithstanding it established popery throughout half America.

It met with
considerable
opposition in the
House of
Commons.

A toleration only,
not an establishment,
of the Roman-Catholick
mode of
divine worship was
promised to the
Canadians by the
capitulation in
September, 1760, and
the treaty of peace in
February, 1763.

throughout all which extent of country, (hitherto, indeed, uncultivated and unpeopled, but very rich and fertile and likely hereafter to become exceeding populous) the popish religion was consequently to become gradually established. When it had passed the House of Lords, it was sent down to the Commons for their consent. In that house it met with a different treatment. Many very strong objections were very strongly urged against it by several gentlemen of great abilities. Some of those gentlemen objected to the *establishment* of popery by it, when all that was necessary to be done, either for the performance of the capitulation with Sir Jeffery Amherst in September, 1760, or of the treaty of peace in February, 1763, was to *tolerate* it, or (in the words of the capitulation itself,) *to permit the free exercise of the Catholick, Apostolick, and Roman religion to subsist intire, so that all ranks and conditions of people in the towns and countries, places, and distant posts, might continue to assemble in the churches and to frequent the sacraments, as heretofore, without being molested in any manner, directly or indirectly, or, in the words of the 4th article of the treaty of peace (in which this province is ceded to the crown*

of Great-Britain,) to permit his Majesty's new Roman-Catholick subjects to profess the worship of their religion according to the rites of the Romish church, as far as the laws of Great-Britain would permit.

Now, to shew that neither of these stipulations had the least view to any thing more than a mere toleration of the Roman-Catholick mode of divine worship, will make a remark or two on each of them. As to the foregoing words of the capitulation, they are as clear and determinate as words can well be, for the purpose of expressing a mere toleration of the modes of divine worship prescribed by the Roman-Catholick religion, or an exemption from the English penal laws, which restrain Roman-Catholick priests from saying mass and performing the other offices of their religion, and Roman-Catholick laymen from assembling together to hear mass and receive the sacraments of the Church of Rome, and which, (it was apprehended by the Marquis de Vaudreuil, the French general and governour of Canada, who demanded this capitulation of general Amherst,) might have been introduced, amongst the other

Of the capitulation
in 1760.

laws of England, into this province upon its surrender to the British arms, if no such article had been inserted in the capitulation to protect the Canadians against them. Nor do I think it is easy to make a more exact and proper definition of the word *toleration* than is contained in those words, to wit, *that all ranks of people might assemble in the churches, and frequent the sacraments, without any molestation whatso- ever.* But they certainly have not the least allusion to a continuance of the compulsive, or legal, obligation on the laymen of Canada to pay the priests their tythes and other dues, or, in other words, to *the establishment* of the Roman-Catholick religion.—Not but that the Marquis de Vaudreuil was desirous of obtaining even a continuance of the establishment of that religion. But he made it the subject of a distinct demand, which was expressed in these words, “ *And that the people should be obliged by the English government, to pay to the priests the tythes and all the taxes they were used to pay under the government of his Most Christian Majesty;*” which come immediately after the words above recited. But this demand was as distinctly rejected by the wise and cautious English gene-

The establishment of the popish religion was demanded by the French general, but refused by general Amherst.

ral, Sir Jeffery Amherst, who answered this and the former demand of a toleration in these words; "*Granted, as to the free exercise of their religion. The obligation of paying the tythes to the priests will depend on the king's pleasure.*" The latter part of this answer has been generally understood in Canada (as you know still better than I do,) as a declaration that the people of this province should not be obliged by the English government to pay the priests their tythes and other accustomed dues, until his Majesty's pleasure should be declared upon the subject; or, in other words, as a suspension of the legal, or compulsive, right of the priests to demand the said tythes and dues, until such declaration of his Majesty's pleasure; which royal pleasure was never declared in favour of the payment of the tythes until his Majesty gave his assent to this Quebec-act: inso-much that, in the whole space of eleven years, that elapsed between the establishment of the civil government of this province in 1764 and the first of last May, when the said Quebec-act began to take place, the priests of this province have never presumed to sue for their tythes in any of the higher courts of justice.

justice. I say, in any of the higher courts of justice; because I have been told that some suits for tythes have been entertained by a justice of the peace, or two, in the district of Montreal, though the like suits have been disallowed before other justices of the peace in the district of Quebeck. But the civil proceedings before the justices of the peace in this province have been too irregular to deserve any attention.

It is plain therefore that the capitulation of September, 1760, gives the Canadians no sort of claim to any thing more than a toleration of the modes of divine worship prescribed by the Roman-Catholick religion.

Of the toleration of the worship of the Roman-Catholick religion by the treaty of peace in February, 1763.

I am now to examine the words of the treaty of peace, which are, "*that his Majesty promises to permit his new Roman-Catholick subjects to profess the worship of their religion according to the rites of the Romish Church, as far as the laws of Great-Britain will permit.*" Now, if these latter words, which refer to the laws of England, and which seem to be a limitation of the former, were omitted, this article would only amount to a toleration of the Roman-Catholick

Catholick modes of divine worship in the province. For what else can be the meaning of *a permission to profess the worship of their religion according to the rites of the Romish Church?* Nothing, surely, that has the least tendency to an *establishment* of the Romish religion, or an engagement to use the authority of government to compel the people to pay the priests their tithes, or other dues, as a reward for teaching that religion, can be inferred from hence, if the words are to be understood according to their known and usual signification. But, if we consider those other words, which refer to the laws of England, as not mere idle words that are totally destitute of meaning, but as having some reasonable signification, we shall find that it is still more difficult, (if at all possible to the most prejudiced person,) to conceive that this article of the treaty of peace was meant for the establishment of popery. For, though it might be uncandid and unreasonable on this occasion to interpret the words of reference to the laws of England, to wit, "*so far as the laws of Great-Britain will permit,*" as if they referred to those penal laws of England which prohibit the hearing and saying mass in England;

Of the reference therein made to the laws of England.

This does not relate to the penal laws of England against hearing and saying mass.

But to the great statute of the first of queen Elizabeth, for establishing the supremacy of the Crown, and abolishing the pope's, and all other foreign jurisdiction in spiritual matters.

land ; (because such an interpretation of them would take away the toleration of the Roman-Catholick mode of divine worship, which it was the intention of this clause of the treaty of peace to secure to the Canadians ;) yet we must, at least, understand these words to refer to the great statute, of the first year of the reign of queen Elizabeth, for establishing the supremacy of the crown of England in all spiritual and ecclesiastical matters, and abolishing the pretended authority of the pope, or bishop of Rome, and all other foreign jurisdiction whatsoever, throughout all the dominions of the Crown. For this statute expressly declares that the said foreign jurisdiction shall be for ever excluded not only from England and Wales, and the other dominions then belonging to the Crown, but likewise from all the dominions *that hereafter should belong to it*. This therefore seems to be a grand, fundamental, statute, that was intended to relate to all the dependant dominions of the Crown, as well as to the kingdom of England itself ; and to all the future acquisitions of the Crown, as well as to the territories that were at that time subject to it. If therefore those words of the treaty of peace, which refer

to the permission of the laws of England, are to be supposed to have any meaning at all, they must refer to this important statute; which must therefore be considered as being of force in this province. And, indeed, this statute is referred to in the *Quebeck-act* itself, as having a relation to this province. Now by this statute all persons who held places of trust and profit under the Crown, and all bishops and priests, or ministers of religion, who held any ecclesiastical benefices, were obliged to take the oath of supremacy, that is, an oath declaring the king, or queen, of England to be the supreme head of the Church of England, and abjuring the authority of the pope, or bishop of Rome, and all other foreign jurisdiction whatsoever in spiritual matters. This oath was afterwards changed for another by a statute passed in the first year of the reign of king William and queen Mary, out of regard (as it should seem,) to the scruples of some pious and well-meaning protestants, who (though willing enough to abjure the authority of the pope, and all other foreign jurisdiction, in spiritual matters) yet did not think it right to acknowledge the king, or any person but Jesus Christ himself, to be the supreme head of the Church. In compliance

This statute is acknowledged in the *Quebeck-act* itself to have a relation to the province of *Quebeck*.

By this statute no priest could hold a benefice without taking the oath of supremacy.

This oath was afterwards changed into an oath of abjuration of the pope's authority.

with these persons, a new oath was prescribed to be taken, which contained all the words of abjuration of the pope's authority and all other foreign jurisdiction, which had been in the former oath, but was without the positive words in the former oath which declared the king, or queen, of England to be the supreme head of the Church. And this new oath was directed to be taken by all those persons who would otherwise have been obliged, by the statute of queen Elizabeth, to take the former oath. This new oath may be properly called *the oath of abjuration of the pope's authority*.

Therefore, after the treaty of peace in 1703, no priest could legally hold a benefice without taking the oath of abjuration of the pope's authority.

It follows therefore that, after the said treaty of peace, no priest could become legally possessed of an ecclesiastical benefice in this province, so as to have a legal right to the use of his parsonage-house and to the glebe-land thereto belonging, and to be legally intitled to demand his tythes and other dues of his parishioners, without taking this oath of abjuration of the pope's authority: and this, it is well known, is what none of the Roman-Catholick priests in this province have done, or can do while they continue Roman-Catholicks, the said oath being a renunciation of the most essential article

of their religion, and that from which the very name of it is derived, the supremacy of the bishop of Rome over all other bishops. Consequently none of the Romish priests in this province could, after the treaty of peace in 1763, have a legal right to demand their tythes of their parishioners.

I may even add, that this would have been the case, even if the king had, in the year 1761, or in any other part of the interval of time between the capitulation in Sept^r. 1760, and the treaty of peace in Feb. 1763, declared it to be his pleasure, that the English government should compel the people of Canada to pay to the priests their tythes and other former dues, in pursuance of the power of making such a declaration, which had been reserved to his Majesty by general Amherst. For, as the capitulation was only a temporary provision, calculated to ascertain the condition of the Canadians during the interval of time that should elapse between the surrender of the country to the British arms and the definitive treaty of peace between the two crowns, by which it would be either restored to the French king or finally ceded to

This would have been the case even if the king had, in the interval of time between the capitulation and the treaty of peace, obliged the Canadians to pay the priests their tythes.

the crown of Great-Britain, it would have been superseded by that more important instrument, the treaty of peace, which was made by the two kings themselves, and with an express design to fix the permanent future condition of the inhabitants of the country ceded to Great-Britain, so far as the crown of France thought fit to interfere in their behalf. And, consequently, all the stipulations of the capitulation, together with the king's subsequent declaration concerning one of them, would have become null and void of course at the conclusion of the treaty of peace, unless they had been particularly recited and ratified in it; and all matters relative to the condition of the Canadians in points not provided for and settled by the treaty of peace, (which was the permanent and definitive agreement between the two crowns upon the subject,) would have been open to be settled according to the discretion of the new legislature (whether that legislature were the king of Great-Britain alone, or the king and parliament conjointly,) to which Canada was then become subject. And, if this would be true of all the stipulations of the capitulation that were not expressly confirmed by the treaty

of peace, it must, *à fortiori*, be true of such of them as were contrary to the articles of that treaty; which would have been the case with the stipulation concerning the payment of tythes to the priests, if the king had declared his pleasure in favour of such payment, because such a provision for the payment of the tythes to the Romish priests would have been contrary to the statute of the 1st of Elizabeth, which was the law of England referred to by the treaty of peace. But this is going into an unnecessary train of reasoning, because the king never did declare it to be his pleasure that the English government should compel the people of Canada to pay the priests their tythes, till he gave his assent to the Quebeck-bill.

In short, the French general in the capitulation asked first for a toleration of the Roman-Catholick religion, and secondly for an establishment of it by giving the priests a legal right to their tythes. And the English general, Sir Jeffery Amherst, granted the first request, and refused the second, but reserved to the king a power of granting it, which the king did not make use of. And in the treaty of peace no establishment

A short view of the obligations of the British nation to tolerate the Roman-Catholick religion, arising from the capitulation and the treaty of peace.

establiſhment of the Roman-Catholick religion is hinted at; but mention is made only of a toleration of it, or a permiſſion to exerciſe the worſhip of it; and this is agreed to by the king of Great-Britain, but with a reference to the laws of England as the meaſure of it; and theſe words, the *laws of England*, muſt, in the moſt gentle and moderate interpretation of them, at leaſt include the great ſtatute of Elizabeth for abolishing the pope's juriſdiction throughout all the dominions of the Crown, which ſtatute permits no prieſt to hold an eccleſiaſtical benefice and have a legal right to tythes without abjuring the pope's authority. Surely, then, nothing can be plainer than that neither of theſe inſtruments gives the Roman-Catholick prieſts of Canada the leaſt ſhadow of a legal right to demand the tythes of their pariſhioners: nor was the Britiſh nation in the ſmalleſt degree bound by any ties of national honour and publick faith (as ſome people have pretended,) to give the prieſts of this province ſuch a legal right, in order to the full and fair performance of either the letter or the ſpirit of either of thoſe inſtruments. An ample toleration of the exerciſe of the worſhip of the
Romish

Romish religion was all that was necessary to satisfy the claims founded on those instruments: and it was all that the body of the Canadian people themselves desired; they being rather pleased than displeased, (as you some time ago observed to me,) with the suspension of the obligation, which they had formerly lain under, to pay their priests their tythes. And such a toleration, (even the most ample that imagination can conceive, and such an one as strangers were apt to mistake for an establishment,) they have actually enjoyed, without the smallest interruption, ever since the capitulation in 1760, to the first day of the month of May last past, to their own great astonishment and satisfaction.

A mere toleration of the Romish religion, without a revival of the legal obligation on the people to pay the priests their tythes, was all that was necessary for the satisfaction of the Canadians.

FRENCHMAN.

Methinks you have made rather a tedious digression to prove what was extreamly plain, and what I should have supposed no body could doubt of, "that our priests had no legal right to sue for their tythes in the interval between the capitulation in 1760 and the operation of the late Quebec-act." It would be strange indeed if they should ground such a right on the

the capitulation, when general Amherst had expressly refused to grant it. And, as to the treaty of peace, it only speaks of a toleration, or permission to exercise the worship of our religion, even if we intirely omit those odd words of general reference to the laws of England, which certainly do not enlarge the indulgence. So that it is the idlest thing in the world to pretend to ground a legal right of the priests of Canada to their tythes upon either of these instruments. I beg you would therefore resume your account of the debate in the House of Commons upon the Quebeck-bill, and Mr. Fox's objections to it upon the ground of the favourite privilege claimed by the House of Commons to originate all money-bills.

ENGLISHMAN.

An account of Mr. Charles Fox's objection to the Quebeck-bill, grounded on the privilege of the House of Commons to originate all money-bills.

The digression I have made (though, I confess, it has been tedious,) is not wholly without its use with respect to the subject you are now inquiring after. For, if the Roman-Catholick priests of this province had no legal right to their tythes in the interval between the capitulation of 1760 and the Quebeck-act, that act, which re-established their antient right to them, was undoubtedly

undoubtedly a money-act: for it compelled his Majesty's Canadian subjects, that professed the Roman-Catholick religion, to pay to the priests of their respective parishes every 26th bushel of the corn that grew upon their lands, by way of tythes, together with certain other taxes, (some of which, I presume, were in money,) which tythes and taxes they were not liable to pay them before the passing of the said act. Now you must observe that corn, or any other commodity worth money, which is ordered to be paid by publick authority, is, in the estimation of the House of Commons, as much a tax as money, and as much the object of this privilege. Consequently this Quebeck-bill was most clearly a tax-bill, or money-bill, and of a very heavy kind. And therefore, according to this privilege of the House of Commons, it ought to have begun in that house, and not, as in fact it had done, in the House of Lords. Now this was Mr. Fox's objection to it. "The privilege of this house," said he, "to which it owes all its importance, is invaded by the Lords. They have originated and sent us down a money-bill. This alone is sufficient to make it our duty to reject it, without troubling

Mr. Fox's
objection.

G g g

"ourselves

The clause in the Quebec act relating to the profession of the Roman-Catholick religion.

The branch which revives the legal obligation on the Roman Catholick inhabitants of Canada to pay the priests their tythes.

“ ourselves to discuss its merits. If its tendency
 “ were as beneficial as it seems to be pernicious,
 “ it would still deserve to be rejected upon this
 “ single account. The clause which makes it
 “ a tax-bill is in these words. “ *And for the
 “ more perfect security and ease of the minds of
 “ the inhabitants of the said province, it is hereby
 “ declared, that his Majesty’s subjects, professing
 “ the religion of the Church of Rome, of and in
 “ the said province of Quebec, may have, hold,
 “ and enjoy the free exercise of the religion of the
 “ Church of Rome, subject to the king’s supre-
 “ macy, declared and established by an act made
 “ in the first year of the reign of queen Elizabeth,
 “ over all the dominions and countries which then
 “ did, or thereafter should, belong to the imperial
 “ crown of this realm; and that the clergy of the
 “ said church may hold, receive, and enjoy their
 “ accustomed dues and rights, with respect to
 “ such persons only as shall profess the said reli-
 “ gion.” By the last words of this clause the
 “ legal right of the Romish clergy to demand
 “ and sue for their tythes and other dues is
 “ again established, after having been suspended
 “ or abolished, ever since the conquest of the
 “ country by the British arms in September*

“ 1760

" 1760, to the present time, that is, for almost
 " fourteen years. This therefore is imposing a
 " tax upon such of his Majesty's Canadian sub-
 " jects as profess the Roman-Catholick reli-
 " gion, for the support of the priests of that
 " religion, which (however reasonable some
 " people may think it to grant the priests such
 " legal maintenance,) makes this bill a tax-
 " bill, or money-bill, and consequently such
 " an one as ought not to have taken its rise in
 " the House of Lords. It is therefore our
 " duty, (as it now comes to us from the Lords,)
 " without farther trouble or debate upon the
 " merits of its several most important provi-
 " sions, to reject it. To deliberate about our
 " conduct upon such an occasion would be
 " wasting our time to no purpose, and weaken-
 " ing our most valuable privilege." This was
 the purport of Mr. Fox's speech on that occa-
 sion; and the members of the House of Com-
 mons seemed to be wonderfully struck with it,
 as none of them had considered the bill in that
 light before.

FRENCHMAN.

Pray, did any body attempt to answer this ob-
 jection? For to me it seems absolutely unanswer-
 able?

ENGLISHMAN.

An attempt
to answer
the objec-
tion of Mr.
Fox.

Insuffici-
ency of this
answer.

And so it does to me at this hour, as well as when I was first told of it. And all the answers that have ever been attempted to be given to it appear to me to be very insufficient. One person said that these tythes were already due to the Romish priests without the help of the Quebec-bill, and that the priests legal right to them had never been abolished, or suspended, and consequently that this clause in the Quebec-bill was not a revival, or re-establishment, of this right, but only a confirmation of it. This answer will not do for you and me, who are, both of us, well satisfied of the falshood of the proposition on which it is built, namely, that the legal right of the priests to their tythes has never been suspended or abolished: but, if this had been true, I conceive it would have furnished no answer to the objection made by Mr. Fox; since the confirmation of a doubtful tax, (which already exists, but upon so precarious a ground as to need a confirmation,) is an act of the same nature as the imposition of a new tax, or the re-establishment of an old one, that has been confessedly abolished; and consequently

consequently, a bill for that purpose ought equally to take its rise in the House of Commons with a bill for imposing a new tax, agreeably to the privilege of that house, before mentioned, to originate all tax-bills, or money-bills. This answer, therefore, to Mr. Fox's objection was doubly defective: being founded on a false fact; and not affording a ground for the conclusion drawn from it, if the fact, on which it was founded, had been true.

Another person said that tythes were not a tax, but a particular species of property issuing out of the lands of other men; and that they were not due upon the same ground as taxes are, that is, by virtue of publick grants of the people, or laws of the state commanding them to be paid for the maintenance of the clergy, but upon quite other grounds: and consequently that the Quebeck-bill was not a tax-bill and not within the reach of Mr. Fox's objection.—What were the grounds upon which the gentleman, who made this answer to Mr. Fox's objection, supposed tythes to be due to the Romish priests of Canada, I do not know. But, if he meant that they were due *by divine right*, without the intervention

Another attempt to answer the same objection.

Insufficiency of this answer.

intervention of the French king's legislative power, he was intirely mistaken. For they were imposed by an edict of Lewis XIV. in the year 1663, at the rate of the thirteenth sheaf of corn; before which edict no tythes at all were paid by the land-holders of Canada: and afterwards this tythe was reduced from the thirteenth sheaf of corn to the twenty-sixth bushel of corn, (ready threshed out for the use of the priest,) by a temporary ordinance of the superiour council of Quebeck made in the year 1667, which was afterwards confirmed and made perpetual by a royal edict of Lewis XIV. in the year 1679. So that nothing can be more certain than that tythes were a publick tax in Canada, imposed by the legislative power of the king of France; whatever may be the ground on which they may have been supposed to have been paid in other countries. Therefore this answer to Mr. Fox's objection was founded on a false supposition, as well as the former. And the like capital defects were to be found, as I have been assured, in all the other vain attempts to answer him. But, as he is a person of great quickness of parts and ingenuity as well as a very clear head and powerful talent
for

for reasoning, he quickly altered the shape of his objection, and formed it in such a manner that;—though it had been true (as his adversaries alledged in answer to him,) that the Romish priests of this province had already had a legal right to the tythes without the help of the Quebec-bill; and, though the confirming a tax already in being should not have been enough to make the bill, in which such confirmation was contained, be considered as a tax-bill, or money-bill;—yet still the said Quebec-bill ought to have been considered as a tax-bill on account of another branch of the clause above-recited, namely, that which provides that the priests shall have a legal right to their tythes from *only* their Roman-Catholick parishioners. “For this,” said he, “is an exemption of his Majesty’s protestant subjects in that province from the payment of tythes, which, as the friends of this bill affirm, were legally due to their respective parish-priests. For such was the law of the country in the time of the French government. All the land-holders in every parish, protestants, (if there were any,) as well as papists, were obliged to pay the priest his tythes. If there-fore

Another objection made by Mr. Fox to the Quebec-bill, grounded on the same privilege of the house of Commons as the former.

“ fore there has been no change made in the
 “ law upon this subject by the capitulation and
 “ treaty of peace and the subsequent introduc-
 “ tion of the English laws and government, as
 “ is now pretended, the protestants in Canada
 “ must at this time be under a legal obligation
 “ to pay the priests their tythes: and from this
 “ legal obligation the provision in this bill which
 “ I have just now mentioned, and which is
 “ expressed in these words, “ *with respect to*
 “ *such persons only as shall profess the said reli-*
 “ *gion,*” is intended to exempt them. If
 “ therefore this bill is not intended, by this
 “ clause about the tythes, to impose a new tax
 “ on his Majesty’s Roman-Catholick subjects
 “ in Canada, but only to confirm and continue
 “ an old one, that is already legally established,
 “ as the patrons of it contend, it must, at least,
 “ be allowed that it is intended to exempt his
 “ Majesty’s protestant subjects in that province
 “ from the payment of the said old tax, to
 “ which they are as yet legally liable. Now a
 “ bill to *take off* a tax is as much *a money-bill,*
 “ in the consideration of this house, as a bill
 “ to *lay one on,* and, according to our invariable
 “ practice upon these occasions, as much within
 “ the

“ the limits of our privilege of originating
 “ money-bills. In this view therefore, as well
 “ as in the former, this bill ought to have begun
 “ in this house, and not in the house of Lords ;
 “ and, as it has, (by some happy mismanage-
 “ ment in those persons who wish it to take
 “ place,) been first brought into the House of
 “ Lords, and is now sent down to us from
 “ thence, we have nothing to do but, without
 “ further consideration of the contents of it,
 “ to *reject* it.”

FRENCHMAN.

This new manner of stating his objection to the Quebec-bill, which was grounded on the representation made of the law concerning the *exchequer* in Canada by his adversaries themselves, was extremely ingenious, and, in my opinion, very just, upon a supposition that the House of Commons consider a bill for *taking off a tax* as being as much an object of their peculiar privilege as a bill for *laying one on* ; which, I take it for granted, is a clear point, as you seem to make no doubt about it. Nor can I imagine what Mr. Fox's adversaries could have to say in answer to an objection which their own false state

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of

of the case about the law concerning tythes had laid so clear a ground for. Pray, what could they say upon this occasion?

ENGLISHMAN.

Mr. Fox's objections were over-ruled, and the Quebec-bill declared not to be a money-bill.

Truly, (from all that I could ever learn,) nothing at all, except, perhaps, a bold repetition of the former strange assertion that the tythes in Canada were not a tax. But they had recourse to that favourite and powerful argument of the majorities in all assemblies, by which, upon occasion, two and two may be *declared* to be equal to five, (though they never can be made so,) the argument of numbers: they voted that the Quebec-bill was *not* a money-bill, and consequently not within the privilege of the house before-described. And so the merits of the bill were entered upon, and, after some amendments made in it, it was sent back to the House of Lords, and there passed with the amendments, and soon after received the royal assent.

FRENCHMAN.

A remark thereon.

This account gives me great uneasiness. For it shews how extremely desirous the ministers of state in England were of getting this unhappy bill

bill passed, since they would thus let this important privilege of the House of Commons be endangered and wounded by means of it, rather than put it off to another session of parliament. I see plainly that they must have been extremely sanguine in their hopes that our priests, (when they had thus been bribed into their service by a restoration of their legal right to their tythes,) would have been wonderfully zealous and successful in their endeavours to preach up, amongst us poor Canadians, the duty and merit of a crusade against our presbyterian neighbours of Boston. But I believe that by this time, or in a very short time hence, they will perceive the error they have been led into, and will find that their favourite act (however agreeable it may be to our priests and some of our noblesse,) has disgusted the bulk of the Canadian people, and made them more averse than ever to engage in so odious a service. However, we will now, if you please, have done with this melancholy subject, and return to the consideration of the four and a half per cent. duty, that, you said, was paid to the Crown on dead commodities exported from some of the West-India islands.

ENGLISHMAN.

With all my heart. But you will remember that our long digression concerning Mr. Fox's objections to the Quebeck-bill was in consequence of your own request. However, we will now return back to the act of the assembly of the island of Barbadoes, by which the said four and a half per cent. duty was granted to the Crown. For that, I think, was the subject of our conversation when this long digression begun.

The $4\frac{1}{2}$ per cent. duty in Barbadoes was granted by the assembly of that island for the purpose of maintaining the king's authority in that island.

Now you may observe that in the preamble to this grant it is stated "*that nothing conduceth more to the peace and prosperity of any place, and the protection of every single person therein, than that the publick revenue may be in some measure proportioned to the publick charges and expences; and that the assembly had well weighed the great charges that there must be of necessity in the maintaining the honour and dignity of the king's authority in the said island; the publick meeting of the sessions; the often attendance of the council; the reparation of the forts; the building a sessions-house and a prison; and all other publick charges incumbent on the government.*" And then, in consideration

consideration thereof, they make the grant of the said duty to the king, his heirs and successors for ever. From this preamble it is evident that this duty of four and a half per cent. was given to the Crown in the island of Barbadoes, not to be disposed of *in any manner* his Majesty should think proper, and *in any part of his dominions*, (as, for example, in pensions to persons residing in England,) but *for the purpose of maintaining the king's authority in that island of Barbadoes*, and particularly to defray the expence of the publick meeting of the sessions, the frequent attendance of the council; the repairing of the forts, and the building a sessions house and prison. And it is, therefore, only in case of an overplus of the produce of this duty in the said island above what is abundantly sufficient to defray all these and the like expences in the said island, that is, to maintain the whole civil and military establishment in it, that the Crown is at liberty, (consistently with the intention of the granters of this duty,) to dispose of any part of it out of the said island of Barbadoes. And such an overplus, we may well believe, it never will afford. It would therefore be only a restoration of this duty to the purposes

Therefore it ought not, in point of justice, to be applied to any other purposes.

A proposal to appropriate the said duty, by acts of parliament and assembly, to the purposes for which it was originally granted.

purposes for which it was originally granted, if the Crown were to consent to some act of parliament, or act of assembly of the island of Barbadoes, or other sufficient act of state, whereby this duty should be more strictly appropriated to the maintenance of the civil government of that island, and, (if it produced more than enough for that purpose,) to the support of the military establishment in the same; so that, in the first place, all the salaries of the civil officers of the same, namely, of the governour of the island, the lieutenant-governour, the judges, and provost-marshals or sheriffs, and coroners, and other officers of justice, and of the receiver-general of the revenue, and the collector and comptroller of the customs, and the naval officer, and searchers, and other officers of the customs, should be paid out of it; and, secondly, that the publick buildings in which the council and assembly of the island meet to transact the publick business, and the courts of justice, and the publick prisons in the island, should be kept in good repair out of it; and, thirdly, that all the forts and barracks for soldiers on the island should be repaired out of it; and, lastly, (if it was more than sufficient for

all these purposes,) that the churches in the island (though the building and repairing of churches usually belongs to the inhabitants of the parishes in which they are situated,) should be repaired out of it, and particularly the church in which the assembly of the island was used to attend divine service; and, in short, that no part of the produce of the said duty should be spent out of the said island. And, in order to prevent any future misapplication of this money, it should be provided in the said act of parliament, or assembly, (which should be passed for securing this strict appropriation of the said money to the publick expences of the said island,) that all grants of pensions, or payments, to be made out of the said money, for the future, for any purposes out of the said island, or to any person residing out of the said island, or for any purposes but those enumerated in the said act, even to a person resident in the said island, should be null and void to all intents and purposes; and that the said money should be disposed of only by virtue of warrants of the governour and council of the said island, (to be signed by a majority of the whole council of the same,) to the receiver-general of the revenue to pay it to some

The produce of it should be issued only by virtue of warrants of the governour and council of the said island.

And both the British House of Commons and the assembly of Barbadoes should have a right to inquire into the expenditure of it.

The same thing should be done in the other West-India islands in which the said duty of $4\frac{1}{2}$ per cent. is paid.

some of the above-mentioned uses, and should not be disposed of by the authority of the commissioners of the treasury in England; and that both the British House of Commons, and the general assembly of the freeholders and planters of the said island of Barbadoes, should have a right, from time to time, and as often as they should think fit, to inquire into the expenditure of the said money. An act of parliament of this purport, proceeding from a voluntary offer of his Majesty by a message to the House of Commons to declare his Majesty's readiness to consent to such an appropriation of the said duty, would be a very gracious act of justice towards the people of Barbadoes, which, (together with the abolition of the lucrative fine-cure places in the said island in the manner above-proposed,) could not fail of giving great satisfaction to the people of the said island. And the like measure should, in my humble opinion, be adopted with respect to all the other West-India islands, in which this duty of four and a half per cent., upon goods exported from them, is paid to the Crown.

FRENCH-

FRENCHMAN.

I think it cannot be doubted but that such a measure would be exceedingly agreeable to the inhabitants of the West-India islands, and fill their minds with a high idea of the justice and honour of the Crown; though, as you observed some time ago, it does not seem to be absolutely necessary to the settlement of the present disputes between Great-Britain and North-America. But, pray, are most of the West-India islands subject to pay this duty upon the goods they export, or only one or two more besides Barbadoes? For, I think, you said at first that they were not all liable to it, and particularly that Grenada was not so.

ENGLISHMAN.

Grenada certainly is not liable to pay this duty, as was determined in that famous cause of Campbell and Hall, which I mentioned to you some time ago. But the islands of Nevis, Antigua, St. Christopher's and Montserrat, (which are called the Leeward Caribbee islands,) are liable to it by virtue of acts of their assemblies, similar to that already mentioned of the assembly

The same duty of $4\frac{1}{2}$ per cent is paid in the islands of Nevis, Antigua, St. Christopher's, and Montserrat, by vir-

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of Barbadoes,) by which it has been granted in perpetuity to the Crown. The act of assembly for the island of Nevis, whereby this duty was so granted to the Crown, was passed in the reign of king Charles II. in the year 1664, that is, four years after the restoration, and one year after the act of assembly passed for the same purpose in the island of Barbadoes. It states much the same facts concerning the uncertainty of the titles to land in the said island of Nevis as had happened in the island of Barbadoes;--- that king Charles I. had granted the said island of Nevis to the earl of Carlisle, to whom he had also granted the island of Barbadoes;--- that king Charles II. had bought in all the rights of the said earl, and that he had appointed Francis, lord Willoughby, of Parham, governour of Barbadoes and the rest of the Caribbee islands of which this of Nevis is one, with power to grant, confirm, and assure lands to the inhabitants of the same, and their heirs for ever, under the king's seal appointed for Barbadoes and the rest of the Caribbee islands, which at that time were all under the same governour, though they had different assemblies; --- and that, by virtue of the said earl of Carlisle's patent, divers go-
vernours

vernours and agents had been sent over to the said island of Nevis, with authority to make grants of land within the same to such persons as they should think fit; and that they had, accordingly, made several such grants;----and that several of the persons, to whom such grants had been made from the earl of Carlisle, had lost their grants, or warrants, or other evidences for their lands; and that the grants of others had, by reason of the ignorance of those times, been unskilfully drawn, and wanted sufficient and lawful words to create estates of inheritance to the grantees and their heirs; and that others of the said grantees had never recorded their grants and warrants; and that other persons, who were at that time possessed of divers parcels of land in the said island, could make no proof that they had ever had any grants, or warrants, at all for their said lands, and yet had been a long time in quiet possession of the same, and had bestowed great charges on them: and then, without further pre-amble, it makes the grant of the said duty of four and a half per cent. upon all commodities of the growth of the said island of Nevis, that shall be exported from the same, to the king, his heirs and successors

the grant
in the island
of Nevis
does not
contain the
same clause
as is insert-
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for ever. This is the purport of that act of the assembly of the island of Nevis; in which it is worth observing that there is no such clause as that in the act at Barbadoes, declaring "that the publick revenue ought to be, in some measure, proportioned to the publick charges and expences, and that the assembly had well weighed the great charges that there must be of necessity in the maintaining the honour and dignity of the king's authority in the said island; the publick meeting of the sessions; the often attendance of the council; the reparation of the forts; the building of a sessions house and a prison; and all other publick charges incumbent on the government;" by which the said duty seems, in the case of Barbadoes, to have been appropriated, (in the intention of the persons who granted it,) to the maintenance of the civil and military establishment of that island, and not to have been given for the free and absolute disposal of king Charles and his successors in any place and in any manner they should think proper. It is not therefore *quite so evident* in the case of the island of Nevis as in that of Barbadoes, that this duty of four and a half per cent. was intended only for the main-
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tenance of the king's authority in that island.

But yet, if we consider that this act of the assembly at Nevis was passed under the same governour, lord Willoughby, of Parham, as the said act of assembly at Barbadoes, and the very next year after that act, and, as it were, in imitation of it;---and if we consider likewise how very unlikely it is that the inhabitants of so small an island as Nevis, and which was then in an infant state of cultivation, should grant money to the Crown for other purposes than the maintenance of its own government, when the inhabitants of the much larger and richer island of Barbadoes had just before declined to do so, and had confined the money they had granted, (so far as the words of a pre-ambule to an act of assembly could confine it,) to the maintenance of the king's authority in their island;---it must, I imagine, be thought probable, upon the whole, that the members of the assembly at Nevis, who made this grant of the four and a half per cent. duty to the Crown, intended it only for the maintenance of the king's government in their island, and not for any other purposes whatsoever.

Yet it seems probable that it was granted only for that purpose.

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Of the grants of the said duty in the islands of Saint Christopher, Antigua, and Montserrat.

It was granted a second time in the island of Antigua in the year 1668.

The like acts of assembly, for granting this duty of four and a half per cent. on goods exported, were passed in the islands of Saint Christopher, Antigua, and Montserrat, about the same time as the two acts of assembly already mentioned in Barbadoes and Nevis, that is, about the year 1663, or 1664. And afterwards a second act of assembly was passed for the same purpose in the island of Antigua, which was occasioned by the events of the first Dutch war in the reign of Charles II. which begun in the year 1664 against Holland and France, and was terminated by the Peace of Breda in 1667. In that war the island of Antigua had been taken by the French under the command of Monsieur de La Barre, an officer of the French king, and was given back to king Charles II. by the peace of Breda. By this French conquest the English settlers on that island lost all their rights to the lands they had held under the crown of England; and these lands became the property of the French king: and afterwards, by the cession of the said island made by the French king at the peace in 1667 to the crown of England, the king of England was understood to be vested with the absolute property

property of these lands in the same manner as the king of France had been after the conquest of them and before the said peace of Breda, without any revival of the rights of the former owners of them. In this state of things king Charles II. resolved to make new grants of the lands of Antigua to their former owners; but, in consideration of this favour to them, he seems to have required the people of that island to make, to him and his heirs for ever, a grant of the said duty of four and a half per cent. upon all commodities of the growth of the said island, that should be exported from it. And this was accordingly done by an act of assembly of the said island of Antigua passed in the month of May in the year 1768, intituled, "*An act for the settlement of the custom, or duty, of four and a half per cent.,*" of which the most material part is expressed in these words.

"Whereas, by reason of the late unhappy war, which arose betwixt his royal Majesty, Charles the second, king of Great-Britain, France, and Ireland, &c. and the most Christian king, in France, as well as the States General of the United Netherlands, several of his Majesty of Great-Britain's territories on this side the Tropic, became subject,

The words of the act of assembly of Antigua, by which it was granted in the year 1668.

through

through conquest, unto the said French king and his subjects; and, amongst others, this island of Antigua also was so subdued by Monsieur de La Barre, lieutenant-general by sea and land to the said French king, being assisted by the Cannibal Indians; by means whereof all the lands within this island became forfeited unto his Majesty, &c. as by an act of this country bearing date the tenth day of April last past, (reference being thereunto had,) may more at large appear: **KNOW YE**, that, for and in consideration of new grants and confirmation of our said lands, under the great seal appointed for Barbadoes and the rest of the Caribbee islands, by his Excellency Lord Willoughby, of Parham, &c. We do **GIVE** and **GRANT** to his said Majesty, his heirs and successors for ever, and most humbly desire your Excellency to accept these our grants; And we do humbly pray your Excellency that it may be enacted, **AND BE IT ENACTED**, by his Excellency Lord Willoughby, of Parham, captain-general and chief governour of Barbadoes and the rest of the Caribbee islands, and by and with the **ADVICE** and **CONSENT** of the **COUNCIL** and gentlemen of **THE ASSEMBLY**, **REPRESENTATIVES** of this island, and by the au-

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thority of the same, That an impost, or custom, be, from and after the publication hereof, raised upon the native commodities of this island, after the proportion, and in manner and form, as above set down, that is to say, upon all commodities of the growth, or production of this island, that shall be shipped off the same, shall be paid to our sovereign lord the king, his heirs and successors for ever, four and a half in specie for every five-

score." This act has somewhat the appearance of a bargain made by the people of Antigua with the Crown for a new grant of their lands, instead of a provision (as in the case of Barbadoes,) for the maintenance of the king's authority in it: and consequently the king seems to be more at liberty, (in point of justice, and consistently with the intention of the persons who granted this duty,) to apply the produce of this duty, arising in the said island of Antigua, to purposes foreign to the said island, (as, for example, to grant pensions out of it to persons residing in England,) than he is to apply the produce of the same duty, arising in the island of Barbadoes, to the like purposes. Yet even in this case I conceive it would be a noble act of generosity in the Crown, if not of justice,

A remark on the said act.

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to It is, upon the whole, fit and reasonable that in Antigua, as well as the

other Leeward Caribbee islands, the said duty of $4\frac{1}{2}$ per cent. should be appropriated to the publick uses of the people by whom it is paid.

to give up this power of applying the produce of this duty in Antigua in this unlimited manner, and to consent to its being appropriated for the future to the purposes for which it had, probably, been originally granted in the year 1663, or 1664, (before the aforesaid Dutch and French war, and the subsequent conquest of the said island by the arms of France, and cession of it to the crown of England, which enabled king Charles II. to make the above-mentioned bargain with the inhabitants for new grants of their former lands,) namely, to the maintenance of the king's authority in the said island, or the support of the civil and military establishments in it.

The said duty of $4\frac{1}{2}$ per cent. was extended to the French part of the island of Saint Christopher by an act of the assembly of that island in the year 1727.

And in the year 1727 the same duty of four and a half per cent. upon goods exported was extended to the French part of the island of St. Christopher, which had belonged to the crown of France in the year 1663, (when the act of assembly, which granted the said duty to the Crown on goods exported from the other, or English, part of the said island, was passed,) and which had been ceded to the crown of Great-Britain by the treaty of Utrecht in 1713.

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This act of assembly of the island of Saint Christopher, by which the said duty was extended to the French part of the said island, is intituled, "*An act to subject all goods and commodities of the growth and produce of the late French part of the island of St. Christopher, which are, or shall be, shipped off from the said island, to the payment of the four and an half per cent. duty, and to ascertain at what places all the duties of four and a half per cent. shall be received.*" And it is expressed in the following words.

"Whereas, in and by an act or statute of the general council and general assembly of the Leeward Caribbee islands in America, called or known by the names of Nevis, St. Christopher, Antigua, and Montserrat, made in or about the year of our Lord 1663, and intituled, "*An act for settling an impost on the commodities of the growth of the said Leeward Caribbee islands,*" a certain duty or custom of four pounds and a half in specie for every hundred weight of the commodities of the growth and produce of the said Leeward islands then afterwards to be shipped off from the said islands, or any of them, was given and granted to our late sovereign lord, Charles the second, then king of England, Scotland, France, and

The words of the said act of assembly.

Ireland, and to his heirs and successors for ever; as in and by the same act and statute, (relation being thereunto had,) may more fully and at large appear.

And, whereas since the making of the said statute, to wit, in and by the late treaty of peace and friendship concluded at Utrecht between the two crowns of Great-Britain and France, an entire cession was made by the most Christian king, Lewis the fourteenth, to our late sovereign lady Anne, queen of Great-Britain, France, and Ireland, and to her crown for ever, of all that part of the island of Saint Christopher formerly belonging to the crown of France; so that the same late French part of the said island of Saint Christopher is now become parcel of the realm of Great-Britain, and is under the sole dominion and government of the crown of the same.

And, whereas some doubts have arisen, whether the said late French part, so yielded up as aforesaid to the said crown of Great-Britain, be subject to the payment of the aforesaid duties of four and a half per cent. so as aforesaid, in and by the said recited act, given and granted to our said late sovereign lord, king Charles the second, his heirs and successors.

For avoiding therefore all disputes and controversies, which may for the future arise within the same island, touching or concerning the payment of the same duties, *WE*, your Majesty's most dutiful and loyal subjects, *John Hart*, esquire, your Majesty's Captain-general and GOVERNOUR in chief of all your Majesty's Leeward Caribbee islands in America, and the COUNCIL and ASSEMBLY of the said island of Saint Christopher, do humbly beseech your Majesty that it may be ENACTED and DECLARED; and it is hereby ENACTED and DECLARED by the KING's most excellent Majesty, by and with the advice and consent of the Captain-general and GOVERNOUR in chief of the said Leeward Caribbee islands, in America, and the COUNCIL and ASSEMBLY of the said island of Saint Christopher, and by the authority of the same, That all and singular the goods and commodities of the growth and produce of the said late French part of the said island of Saint Christopher, and which at this time are, or hereafter shall be, shipped off from thence, in order to be carried to any other port or place whatsoever, are, and for ever after shall be, subject and liable; and the same goods and commodities, and every of them,

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are hereby made subject and liable ; to the payment of the aforesaid duties and customs of four and an half per cent. in specie, to your most sacred Majesty, your heirs and successors, in such manner and sort as the goods and commodities of the growth and produce of that part of the said island known and called by the name of the English part thereof, have heretofore and hitherto been subject and liable unto by force and virtue of the above-recited act or statute."

By this act of the assembly of the island of St. Christopher the French part of the said island is put upon the same footing as the English part of it with respect to the payment of the said duty: and it may fairly be supposed that the duties payable in the French part of this island were intended, by the makers of this act of assembly, to be applied to the same purposes as the duties payable in the English part of it, that is, (as seems probable for the same reasons as in the case of the island of Nevis,) to the maintenance of the king's authority in the said island, or the support of the civil and military establishments in it. There is therefore the same reason for appropriating the produce

It seems reasonable that the produce of

the said duty in the French part of the said island of Saint Christopher, should be appropriated to the publick uses of the said island, as well as the produce of it in the English part of the said island.

of this duty of four and a half per cent., arising in this French part of the island of St. Christopher, to the said purposes, respecting the welfare and good government of the said island itself, as for appropriating the produce of the same duty arising in the English part of it, and in the islands of Nevis and Montserrat, to the same purposes.

Nor ought we on this occasion to forget the clause, which I mentioned to you some time ago when we were examining the commissions of the governours of the American provinces, concerning the issuing and the application of the monies raised in the said provinces, which seems to be a plain and strong declaration on the part of the Crown, that the monies therein raised should not be applied to any purposes foreign to the provinces in which they were raised respectively. This clause in the commission of Sir Danvers Osborne, governour of New-York, was as follows. "*And our further will and pleasure is, that all publick monies raised, or which shall be raised, by any act to be hereafter made within our said province and other the territories depending thereon, be issued out by*

warrant

This opinion seems to be warranted by the words of the king's commissions to his governours in America.

warrant from you, by and with the advice and consent of our council, and disposed of by you for the support of the government, and not otherwise."

The like clause is, as I believe, inserted in the commissions of all the other governours, both of North-America and the West-India islands, and therefore probably was inserted in that of Lord Willoughby, of Parham, who was governour of Barbadoes and the islands of Nevis, Antigua, St. Christopher, and Montserrat, in the years 1663, 1664, and 1668, when the three first of the above-mentioned acts of assembly for Barbadoes, Nevis, and the other three islands, and the act of assembly in Antigua after the peace of Breda, were passed, and in that of Mr. John Hart, who was governour of St. Christopher, and the other Leeward Caribbee islands, to wit, Antigua, Nevis, and Montserrat, in the year 1727, when the aforesaid duty of four and a half per cent. was extended to the French part of the said island of St. Christopher. And, if the said clause was inserted in those commissions, (as there seems to be great reason to believe,) it is a plain declaration on the part of the Crown that the produce of this four and a half per cent. duty in

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all those islands was originally intended for the maintenance of the king's authority in them, or the support of the civil and military establishments in them, and for no other purposes whatsoever, and ought to be issued only by warrants of the governours and councils of those islands, for the said purposes, and not by warrants or orders of the lord treasurer of England, or of the commissioners appointed to execute his office; whatever abuses may have crept in of late years with respect both to the authority by which the produce of this duty has been disposed of, and to the purposes to which it has often been applied. Our proposal therefore to appropriate the produce of this duty in the strictest manner possible to the maintenance of the civil and military establishments of the islands in which it arises, ought not to be considered as *an innovation* to the prejudice of the just and legal revenue of the Crown, but as a just and candid restoration of this duty to the purposes of its original destination.

The produce of the said duty of 4½ per cent. ought not to be issued by the warrants of the lords commissioners of the Treasury in England, but only by the warrants of the governours and councils of the provinces in which it is paid.

This is all that I have been able to collect concerning this duty from the account of that famous cause of Campbell and Hall, which I

mentioned to have been determined for the plaintiff Campbell, by the court of King's-Bench in England, in the month of November, 1774.

FRENCHMAN.

Your account of this matter has given me much entertainment. And I am more and more convinced of the justice and reasonableness of the measure you recommend, of appropriating the produce of this duty of four and a half per cent. in all the islands in which it is paid, to the maintenance of the government, and other publick uses, of those islands respectively. Nor can I, indeed, conceive that any body can entertain a doubt of the propriety of such a measure. And certainly no time can be so fit for a reformation of the abuses that have happened upon this subject as the present conjuncture, when there is an evident necessity for re-considering and reforming the whole political state of North-America in order to produce the wished-for reconciliation with Great-Britain. But, before we intirely quit this subject of the four and half per cent. duty, I must desire you to inform me whether this duty is paid in the large and

rich island of Jamaica, and also to let me know a little of the ground on which the Crown undertook to impose the like duty on the inhabitants of the island of Grenada by its own prerogative only, without the intervention of either the parliament of Great-Britain or the assembly of the island of Grenada. For this seems to me to be rather an odd event in the present advanced age of the English constitution and liberties, of which I always conceived it to be one of the most important that the king could not (as in France and Spain and other absolute monarchies in Europe,) raise money on his subjects without their own consent.

ENGLISHMAN.

I will endeavour to give you the best satisfaction I am able upon this subject, which is a curious and important one, and affords but too just grounds for the surprize you have expressed concerning it.

But, first, as to what you ask concerning Jamaica. You desire to know, whether this duty of four and a half per cent. upon dead commodities exported, is paid in that large and

The afore-
said duty of
 $4\frac{1}{2}$ per cent.
is not paid
in the island
of Jamaica,
nor in those
of Anegada
and Tor-
tola,

The opini-
on of Mr.
Lechmere,
attorney-
general to
K. Geo. I.
that the
king could
not impose
this duty in
the said
islands by
his prero-
gative.

rich island. The answer is short and easy, to wit, that I am well assured that this duty is not paid in the island of Jamaica, nor yet in two other British islands in the West-Indies, called Anegada and Tortola, situated at a small distance from St. Christopher's. And it has been confidently asserted in print (though I cannot give you certain proof of it,) that, when the British ministers of state at one time, in the year 1717, either attempted, or proposed attempting, to impose this duty on the inhabitants of those islands by virtue of the royal prerogative, Mr. Lechmere, the attorney-general of that time, (who was afterwards made lord Lechmere,) being consulted upon the legality of the project, honestly replied, "that the person who should advise his Majesty to take such a step, would be guilty of high treason." This is a curious anecdote, and a proper introduction to the account which I will now endeavour to give you of the late imposition of the same duty on the inhabitants of Grenada by virtue of the royal prerogative in the year 1764.

Of the im-
position of
this duty in
the island of
Grenada.

The island of Grenada was conquered by the British arms in the year 1762. It surrendered

(as this province of Quebeck had done two years before,) upon certain articles of capitulation, which were the same as had been granted a little before to the inhabitants of the island of Martinico, of which the sixth and seventh seem to be the most material to the subject we are now considering.

The sixth article of that capitulation was in these words. "*The inhabitants, as also the religious orders, of both sexes, shall be maintained in the property of their effects, moveable and immoveable, of what nature soever, and shall be preserved in their privileges, rights, honours, and exemptions. Their free negroes and mulattoes shall have the entire enjoyment of their liberty.*"

The articles of the capitulation of Grenada, which were the same as those of Martinico.

The answer of the British general to this demand was in these words. "*Granted, in regard to the religious orders. The inhabitants, being subjects of Great-Britain, will enjoy their properties, and the same privileges as in the other his Majesty's Leeward islands.*"

The seventh article was in these words. "*They shall not pay to his Majesty any other duties than those which have been paid hitherto to his*

his most Christian Majesty, and the capitation of negroes upon the same footing it is paid at present, without any other charges or imposts. And the expences of justice, pensions to curates, and other occasional expences, shall be paid by the domaine of his Britannick Majesty, as they were by that of his most Christian Majesty."

The answer of the British general to this demand was in these words. "*Answered in the sixth article, as to what regards the inhabitants.*"

It must also be observed that, during the subjection of the island of Grenada to the crown of France, there were certain customs and impost-duties collected upon goods imported into, and exported out of, the said island; and likewise that a capitation, or poll-tax, was paid to the French king by its inhabitants.

The definitive treaty of peace in February, 1763.

The definitive treaty of peace was concluded in a short time after the surrender of Grenada, to wit, on the 10th of February, 1763. By this treaty, art. 9th, this island of Grenada was ceded by the king of France to the crown of Great-Britain in full right, with the same stipulations

lations in favour of the inhabitants of it as are granted in the fourth article of the said treaty to the inhabitants of Canada, that is; that they should retain the possession of their property of every kind, moveable and immoveable, if they chose to continue under the British government and become subjects to the king of Great-Britain, and should have the liberty of selling it to any of his Majesty's subjects within the space of eighteen months, and retiring, with the money produced by such sale, to whatever country they should think proper, if they did not chuse to live under the British government; and, further, that they should enjoy the free exercise of the worship of the Roman-Catholick religion, so far as the laws of England, (that is, as the great statute of queen Elizabeth for abolishing foreign jurisdiction in spiritual matters from all the dominions of the Crown,) will permit.

By the same definitive treaty of peace three out of the four islands till then called *the neutral islands*, were ceded to the crown of Great-Britain, namely, the islands of Dominica, Saint Vincent, and Tobago: and the fourth, (which was Saint Lucia) was ceded to the crown of France.

Cession of the three neutral islands called Dominica, Saint Vincent, and Tobago, to the crown of Great-Britain.

Very

A royal proclamation under the great seal of Great-Britain, for the speedy settlement of the island, of Grenada, the Grenadines, and the said three late neutral islands; published in March, 1763.

Very soon after the aforesaid definitive treaty of peace, namely, on the 26th day of March, 1763, his Majesty published a proclamation under the great seal of Great-Britain, in which he declared that, having taken into consideration the great benefit that would arise to the commerce of his kingdoms and the interest of his subjects, from the speedy settlement of the islands of Grenada, the Grenadines, Dominica, Saint Vincent, and Tobago, he had thought fit, with the advice of his privy council, to issue his said royal proclamation, in order to make it known to his loving subjects that he had given the necessary powers and directions for an immediate survey, and division into proper parishes and districts, of such of the said islands as had not hitherto been so surveyed and divided, and for laying out such lands in the said islands as were in his Majesty's power to dispose of, in allotments for plantations of different sizes and extents, according as the nature of the land should be more or less adapted to the growth of sugar, coffee, cocoa, cotton, or other articles of beneficial culture: after which general declaration of his Majesty's desire that the said islands should be settled and cultivated, the said proclamation

proclamation specifies the particular conditions under which lots of land shall be granted by his Majesty to such persons as will undertake to cultivate them, but makes no mention of any duty to be paid on the exportation of the commodities that shall be produced on them.

In the month of October of the same year, 1763, was published his Majesty's famous proclamation under the great seal of Great-Britain, in which he declared it to be his pleasure to erect four new governments in the territories which had been lately ceded to the crown of Great-Britain; to wit, the governments of Quebec, East-Florida, West-Florida, and Grenada. In this proclamation his Majesty exhorts his subjects of Great-Britain and Ireland, and his colonies in America, to resort to these new governments, and settle in them, and avail themselves of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation: and, as an encouragement to them to do so, he promises them that they shall be governed in the same manner as the other English provinces in America, by a governour, council, and assembly, as soon as the situation and circumstances of the

The king's proclamation under the great seal of Great-Britain in October, 1763, for erecting new civil governments in the countries lately ceded to the crown of Great-Britain.

Promise of the English mode of colony-government by a governour, council, and assembly.

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said

And of the enjoyment of the benefit of the laws of England.

faid new governments will admit of the calling of such assemblies; *and that, in the mean time and until such assemblies can be called, all persons inhabiting in, or resorting to, the said colonies, may confide in his Majesty's royal protection for the enjoyment of the benefit of the laws of his realm of England.*

Colonel Melville's commission of governour of Grenada, and the Grenadines, and the islands of Dominica, Saint Vincent, and Tobago; in April, 1764.

In pursuance of this proclamation, his Majesty, in the month of April, 1764, appointed Robert Melville, Esq; captain-general and governour in chief over the said island of Grenada and the Grenadines, together with the three, (formerly neutral) islands called Dominica, St. Vincent's, and Tobago, by a commission under the great seal of Great-Britain. This commission was nearly of the same tenour with those of the governours of Quebeck and New-York and the other royal governments in America, and authorized governour Melville, with

It contain'd a grant of a power to call assemblies of the freeholders.

the advice and consent of the council of the said new province, and, as soon as the situation and circumstances of the said islands would admit thereof, to summon and call general assemblies of the freeholders and planters of the said islands, and, with the advice and consent of

the council of the province and such assemblies, to make, constitute, and ordain, laws, statutes, and ordinances, for the publick peace, welfare, and good government of the said islands and the inhabitants thereof, and such other persons as shall resort thereunto, and for the benefit of the king, his heirs and successors.

Governour Melville arrived in the island of Grenada, with this commission, in the following month of December, 1764; and, in pursuance of the powers contained in it, he summoned a general assembly of the freeholders and planters of the island, which met in the latter end of the year 1765.

In the month of July, 1764; that is, after the publication of the royal proclamation of October, 1763, (which promised the inhabitants of the island of Grenada, as well as of Canada and East and West Florida, the immediate enjoyment of the benefit of the laws of England, and, as soon as the circumstances of those new governments would admit thereof, the English mode of colony-government by a governour, council and assembly,) and after

Governour Melville arrives in Grenada with his commission of governour, in December, 1764. An assembly meets about Dec: 1765.

In July 1764 a royal proclamation is issued under the great seal of Great-Britain for establishing the afore-said duty of $4\frac{1}{2}$ per cent. on goods exported from the island of Grenada;

the passing of governour Melville's commission of governour in chief of that island, but before the arrival of it, with the said governour, in the island; his Majesty published another proclamation for imposing upon the inhabitants of Grenada, by virtue of his royal prerogative, the same duty of four and a half per cent. upon all dead commodities, of the growth of the said island, which should be exported from it, that was already paid in the island of Barbadoes, and the other islands before-mentioned, in consequence of grants of the assemblies of those islands. This proclamation was expressed in these words. " *George the third, by the grace of God, of Great-Britain, France and Ireland, king, defender of the faith, &c. to all to whom these presents shall come, greeting.*

The words
of the said
proclamation.

" *Whereas a certain impost, or custom, of four pounds and an half in specie for every hundred weight of the commodities of the growth and produce of the island of Barbadoes, and of the Leeward Caribbee islands in America, shipped off from the same, or any of them, is paid and payable to us, our heirs and successors:*

" *And,*

“ *And, whereas the island of Grenada was*
 “ *conquered by us during the late war, and has*
 “ *been ceded and secured to us by the late treaty*
 “ *of peace :*

“ *And, whereas it is reasonable and expedient,*
 “ *and of importance to our other sugar islands,*
 “ *that the like duty should take place in our said*
 “ *island of Grenada :*

“ *WE HAVE THOUGHT FIT, and our* Imposition
 “ *royal will and pleasure is ; and WE DO* of the a-
 “ *HEREBY, BY VIRTUE OF OUR PRE-* fore said
 “ *ROGATIVE ROYAL, ORDER, DI-* duty of
 “ *RECT, and APPOINT, that an impost,* $4\frac{1}{2}$ per cent.
 “ *or custom, of four and an half per cent. shall,* upon all
 “ *from and after the 29th day of September next* dead com-
 “ *ensuing the date of these presents, be raised and* modities of
 “ *paid to US, OUR HEIRS and SUCCES-* the growth
 “ *SORS, for and upon all dead commodities of* of the island
 “ *the growth or produce of our said island of* of Grenada,
 “ *GRENADA, that shall be shipped off from* that shall be
 “ *the same ; in lieu of all customs and impost* exported
 “ *duties hitherto collected upon goods imported* therefrom.
 “ *and exported into and out of the said island*
 “ *under the authority of his most Christian Ma-*
 “ *esty :*

“ *jesty: AND that the same shall be collected,*
 “ *paid, and levied, in such manner, and by*
 “ *such means, and under such penalties and for-*
 “ *feitures, as the said impost, or custom, of*
 “ *four and an half per cent. is, and may now*
 “ *be, collected, paid, and levied in our said*
 “ *island of Barbadoes and our said Leeward*
 “ *islands.*

“ *And we do hereby require and command the*
 “ *present governour or commander in chief, and*
 “ *the governour or commander in chief for the*
 “ *time being, and the officers of our customs in*
 “ *the said island of Grenada, now and hereafter*
 “ *for the time being, and all others whom it may*
 “ *concern, that they do, respectively, take care*
 “ *to collect, levy, and receive, the said impost,*
 “ *or custom, according to our royal will and*
 “ *pleasure, signified by these presents.*

Continua-
 tion of the
 poll-tax le-
 vied on the
 inhabitants
 of Grenada
 in the time
 of the
 French go-
 vernment.

“ *And, whereas a poll-tax was levied and*
 “ *paid by the inhabitants of our said island of*
 “ *Grenada, whilst it was under subjection to his*
 “ *most Christian Majesty, IT IS OUR ROYAL*
 “ *WILL AND PLEASURE THAT such*
 “ *poll-tax as was levied, collected, and paid by*
 “ *the inhabitants of the said island, whilst it*
 “ *was*

" was under subjection to his most Christian
 " Majesty, shall be continued therein during
 " our royal will and pleasure; and that the
 " same shall be collected, levied, and paid to
 " us, our heirs and successors, at such times
 " and in such manner, and by such ways and
 " means, and under such penalties and for-
 " feitures, and upon such terms, and with such
 " privileges and exemptions, as the same was
 " collected, levied, and paid whilst the said
 " island was under such subjection to his most
 " Christian Majesty, inasmuch as the same are
 " not contrary to the laws of Great-Britain;
 " and that the account and number of the in-
 " habitants and slaves therein shall be, from
 " time to time, kept, and delivered in, by such
 " person and persons, and at such time and
 " times, and under such regulations, sanctions,
 " penalties, and forfeitures, respectively, as,
 " and under which, the same were taken, kept,
 " and delivered in, during the time the said
 " island was subject to his most Christian Ma-
 " jesty, as aforesaid, inasmuch as the same are
 " not contrary to the laws of Great-Britain.

" And WE DO hereby REQUIRE and
 " COMMAND the present governour or com-
 " mander

“ *mander in chief, and the governour, or com-*
 “ *mander in chief, for the time being, and the*
 “ *several officers of our revenue, now and for*
 “ *the time being, and all others whom it may*
 “ *concern, that they do respectively take care*
 “ *to collect, levy, and receive, the money aris-*
 “ *ing, and to arise, by the said tax, and to*
 “ *pay, and account for, the same, to the re-*
 “ *ceiver-general and collector of our casual*
 “ *revenue in our said island, for the time*
 “ *being, according to our royal will and plea-*
 “ *sure signified by these presents.”* This was
 the tenour of the letters patent by which the
 king, by his royal prerogative, imposed the
 said duty of four and a half per cent. on goods
 exported, on the inhabitants of Grenada.

FRENCHMAN.

Truly the style of this instrument is very
 lofty. There is a great deal of *requiring* and
commanding, and of the *royal will and pleasure*,
 in it; which must have made the French in-
 habitants of Grenada recollect the style of their
 former sovereign, who deals much in expres-
 sions of the same kind, such as *Voulons et or-*
donnons, et il nous plaît, and *Car tel est nôtre bon*
plaisir.

plaisir. But surely this must have been very alarming to the English inhabitants who were lately come to settle in that island, and who had been accustomed to very different notions of royal authority. I should imagine they must have been thrown into great consternation by it. And even the inhabitants of England itself had no great reason to be pleased at seeing an attempt of this kind in a country that made a part of the British dominions, and in which the king had declared by his proclamation of October, 1763, that the inhabitants should be governed by an assembly of the people, as soon as the circumstances of the island would admit of it, and, in the mean time, should enjoy the benefit of the laws of England. For they might reasonably apprehend that, what was done at that time in that part of the dominions of the Crown, notwithstanding the declared right of its inhabitants to be governed according to the laws of England, might one day or other be made use of as a precedent for an act of the like nature in England itself, or for the imposition of a new tax on the people without consent of parliament.

The afore-said proclamation must have been very alarming to the new English settlers in Grenada.

It ought also to have alarmed the inhabitants of Old England itself.

ENGLISHMAN.

Yet it was
very little
attended to
in England.

It would
have been
a better
foundation
for a com-
plaint in
parliament
against the
ministers of
state of that
time than
any other
matter that
was alledg-
ed against
them.

Your remark is very just: and, I think, it ought to have been so considered in England. But I do not hear that it was so, but rather, on the contrary, that little, or no, notice was taken of it there. Even the members of the House of Commons who were most in opposition to the measures of government, said nothing about it, though it would, in my opinion, have been a juster ground of complaint against the minister of state, who advised it, (which was Mr. George Grenville) than any other thing they could alledge against him. Nor would it have been at all surprizing if the House of Commons had, in consequence of so dangerous a measure, addressed the king to remove both the minister who advised it, and the Lord Chancellor, who concurred in it by putting the great seal to the above-mentioned letters patent, from his presence and councils for ever. But the fact is, (which I don't well know how to account for) that nothing of that kind was so much as talked of.

FRENCH

FRENCHMAN.

This omission of the British parliament to take any notice of so dangerous an act of royal prerogative, merely, (as it should seem,) because it happened out of the narrow limits of their own island, seems to justify, in some degree, the desire of the Americans to be exempt from its authority. For, if the parliament is disposed to exert its authority only for the purpose of laying taxes on them, when desired by the officers of the Crown to do so, and not for the purpose of procuring taxes to be taken off, when illegally laid upon them by the single authority of the Crown, the Americans will have a right to say that the members of the British parliament have not that fellow-feeling for the condition of their American fellow-subjects which is necessary to induce them to take proper care of their interests, and to qualify them to be the constitutional guardians of their liberties. In such a case (whatever the law upon this subject may have been heretofore) it seems to be a matter of necessity towards the future good government of the American provinces, either that they should, for the future, send repre-

An inference drawn from the inattention of the British parliament to the injuries done to the people of America.

N n n 2

sentatives

ers to the British parliament, or the parliament ought to tax them, and resign that part of its authority to the American

Either the people of America ought to send members to the British parliament, or the parliament ought to tax them, and resign that part of its authority to the American assemblies.

sentatives to the British parliament, who, it may be hoped, will be more attentive to their interests than the British members, who already sit there, have, by experience, been found to be, or that they should be left to take care of their own concerns in their own assemblies, without any interference of the British parliament, at least in this important business of taxation.

ENGLISHMAN.

The Americans reason in this manner, and with but too just cause; since, till within these twelve or fifteen years, neither the British parliament nor the ministers of state in England, seemed to take the least concern about the affairs of America, (except as to the regulation of their trade,) any further than as it served the latter as a fund for them to provide for their managers of parliamentary elections, or for their poor relations, or for their companions, who had run out their fortunes in keeping company with them, or for their other favourites, by giving them the offices of governours, or chief justices, of the American provinces, or those other more desirable employments of provost-marshalls and clerks of the councils
secretaries

The ministers of state in England, till within these twelve or fifteen years last past, have considered America in no other view than as a fund to provide for their friends and favourites; except as to the regulation of the trade thither.

secretaries, registers of deeds and patents, and registers in Chancery, and the like, which we have already spoken of, and which might be executed by deputies in America, who farmed them of their principals in England at considerable rents. These are old and just complaints of the Americans, and which I therefore wish to see removed. But, when the produce

of the four and a half per cent. duty at Barbadoes, (which was granted, as we have seen, for the maintenance of the king's authority in that island) was diverted from the purposes for which it had been granted, and was given away in pensions to persons residing in England, or spent in some other manner in England without any regard to the welfare of the people of Barbadoes, in almost every reign (as I believe,) since the year 1663, in which it was granted, to the present time, I do not find that the British parliament has ever complained of such misapplication of it. Nor, when the same duty was laid on the inhabitants of Grenada by the king's prerogative in the year 1764, (which, as you just now observed, was a measure of so very alarming a nature,) did the British parliament take the least notice of it. And other

Negligence of the interests of Barbadoes by the British parliament upon the frequent misapplications of the produce of the $4\frac{1}{2}$ per cent. duty paid in that island.

such

Negligence of the interests of the island of Grenada by the British parliament upon the illegal imposition of the said duty of $4\frac{1}{2}$ per cent. by the single authority of the Crown on the inhabitants of the said island in the year 1764.

per cent by the single authority of the Crown on the inhabitants of the said island in the year 1764.

such instances might be given of their supineness and insensibility with respect to the concerns of America. So that I think you are perfectly well warranted in the conclusion you draw from their negligence, to wit, that they are not, in their present condition, worthy of, or fit for, the high trust of being the guardians of the liberties and interests of America, notwithstanding they may, by the law, (as it has hitherto stood,) be intitled to act as such; and, consequently, that it is now necessary that they should either admit representatives from the American provinces to sit and vote in the British House of Commons, (with the circumstance of an annual re-election, to keep them dependant upon their American constituents and attentive to their welfare,) or that they should renounce the government of America for the future in the important article of taxation, and leave them to be governed, with respect to that subject and to their other domestick concerns, by their own assemblies. However, I will now, if you please, return to the history of the four and a half per cent. duty in Grenada, of which you desired me to relate the particulars.

FRENCH.

FRENCHMAN.

I beg you would. For I long to hear the Of the
 sequel of it, and particularly to know upon grounds on
 what ground the officers of the Crown could which it is
 pretend to justify so arbitrary a measure as the probable
 imposition of a tax on the subjects of the crown that the
 of Great-Britain by virtue of the royal prerogative only. For, as this was done in the king's mi-
 ministrations of Mr. George Grenville, (who, nisters of
 by your account, was a very able and diligent state in the
 minister of state, and who had studied the con- year 1764
 stitution of his country and was animated by a imagined it
 zeal for its welfare,) I cannot help suspecting to be lawful
 that there must have been some circumstance to impose
 belonging to the island of Grenada which dis- the said du-
 tinguished it, in his opinion, from the other ty of $4\frac{1}{2}$ per
 dominions of the Crown, and made it more cent. by the
 immediately subject to the power and pleasure single au-
 of the Crown. For, surely, a minister of his thority of
 character would never have advised the king to the Crown.
 impose a tax, by virtue of his prerogative alone,
 on the inhabitants of Great-Britain, or even of
 the old English provinces of America;—more
 especially as he was, at that very time, prepar-
 ing to make use of the authority of the British
 parliament

parliament for the purpose of imposing the stamp-duty both on the inhabitants of Grenada and of all the other provinces in America. There is some mystery in this which I do not comprehend, and which I therefore hope you will explain to me.

ENGLISHMAN.

I agree with you in thinking that Mr. Grenville was not a man that would have advised the king to lay a tax, by his prerogative only, either on his subjects in Great-Britain or on those in the old English colonies. Indeed it would have been madness to attempt it in either of those countries. But, I will even go further, and am willing to believe, that he did not wish the king to have such a power, and would not, therefore, have advised his Majesty to assume and exercise this power in any remote and helpless part of the British dominions, in which he had conceived the constitution of the government and the rights of the inhabitants to be the same as either in Great-Britain or the old provinces of America, so as to form a precedent of the kind you mentioned, which might one day be made use of to the prejudice

of the liberties of Great-Britain or the said English provinces. But he conceived, (as I conjecture,) that the imposition of this duty on the inhabitants of Grenada by the royal prerogative was warranted upon two or three peculiar grounds, which related to that island only, and distinguished it both from Great-Britain and Ireland and from the old English provinces of America. These grounds were as follows.

1st, The circumstance of its being a conquered country; which, in Mr. Grenville's opinion, probably, made it liable to be governed by the king's absolute will and pleasure. 2dly, The stipulation contained in the answer to the 6th article of the capitulation, which was in these words, "*That the inhabitants, being subjects of Great-Britain, will enjoy their properties, and the same privileges as in the other his Majesty's Leeward islands;*" from which words Mr. Grenville might, perhaps, think it reasonable to infer, that the intention of this article of the capitulation was to make the inhabitants of this island liable to pay to the Crown the same taxes as were paid to it in the other Leeward islands, of which this duty of four and a half per cent. upon dead commodities exported, was one.

Conjectures concerning the said grounds.

1st, the right of conquest.

2dly, the reference to the king's Leeward islands in the 6th article of the capitulation.

O o o

And,

3dly, The suppression of the old French duties; which gave to the new duty of $4\frac{1}{2}$ per cent. the appearance of *an exchange*.

And, 3dly, those words of the letters patent imposing this duty of four and a half per cent. which declare the said duty to be imposed *in lieu of* the duties formerly paid in that island upon goods imported into, and exported out of, it, in the time of the French government. This suppression of the old French duties gives the imposition of the new duty the appearance of *an exchange*, and, if the French duties were heavier than this new duty of four and a half per cent., (which is, however, more than I can affirm,) a benefit to the inhabitants of that island. These are the reasons which (as I conjecture) induced Mr. Grenville to advise this extraordinary measure; which otherwise I am utterly at a loss to account for.

FRENCHMAN.

Remarks on the insufficiency of the said reasons.

Insufficiency of the second reason, derived from the reference to the Leeward islands in the capitulation.

These reasons have something plausible in them, but do not seem to be sufficient to justify so extraordinary a proceeding. For, first, as to the answer to the sixth article of the capitulation.—In order to ground the inference you have mentioned, it will be necessary to understand the words *the same privileges as in his Majesty's Leeward islands*, to mean *the same burthens*

burthens and taxes, as well as privileges, as are found in those islands; which is a harsh, doubtful, unnatural, interpretation of them, and by no means sufficient to be a ground for exacting a tax from the inhabitants of the new conquest. The more natural meaning of these words seems to be this; “ That, as the inhabitants of the Leeward islands have the privilege of paying no taxes but such as they have themselves freely granted to the Crown by their assemblies, so the inhabitants of Grenada should have the privilege of paying no new taxes but such as they shall themselves freely grant to the Crown by an assembly of the same nature as those of the Leeward islands.” This is truly a *privilege*; and a very important one; and therefore must be supposed to have been conveyed to the people of Grenada by the word *privileges* in the capitulation. And it must further be observed that, if the inhabitants of Grenada had become liable to pay this duty of four and a half per cent. by virtue of this sixth article of the capitulation, which granted them the privileges of the inhabitants of the Leeward islands, they would have become so *immediately* upon the conquest, in the year 1762, and not

have continued free from it till the year 1764, when it was imposed by the aforesaid letters patent. For the provisions of the capitulation were principally, if not wholly, intended for the security and benefit of the inhabitants of Grenada during the continuance of the war, and until the final settlement of their condition by the treaty of peace, when the island would either be restored to the crown of France or ceded to the crown of Great-Britain. The treaty of peace made a new and more permanent provision for the future condition of the inhabitants who should chuse to continue in the ceded island; which provision must be supposed to have superseded the articles of the capitulation in all points in which it did not expressly confirm them. Whatever therefore was not judged to be binding on the inhabitants of that island by virtue of the capitulation in the interval between the capitulation and the treaty of peace, while the capitulation was the only instrument of authority relating to them, ought not to have been imposed on them, under pretence of the capitulation, after the conclusion of the treaty of peace, which put an end to the validity of the capitulation, except

except in those articles which it confirmed, which I do not perceive to have been the case with this sixth article of the capitulation, which mentions the privileges of the Leeward Caribbee islands. So that I think this pretence of a ground for imposing this duty of four and a half per cent. upon the inhabitants of the island of Grenada by virtue of the capitulation in 1762, is very weak and insufficient for the purpose. Nor indeed is there the least allusion to the articles of capitulation in the letters patent, which impose this duty, as you have recited them: but they mention only the conquest of the island and the cession of it to the crown of Great-Britain by the treaty of peace,——and the inconvenience that will accrue to the other sugar islands in the West-Indies, if Grenada should be exempt from the payment of this duty while the king's other sugar islands pay it,——as the grounds for imposing this duty on the inhabitants of the island of Grenada. And then it is stated, in the clause which imposes this duty, that it is in lieu of the duties, both of importation and exportation, which used to be paid in the time of the French government. So that I am inclined to think

think that Mr. Grenville, or whoever else advised his Majesty to lay this duty upon the people of Grenada, did not rely on the said sixth article of the capitulation as a legal ground for such a measure, but rested it rather on the rights of conquest and on the circumstance of its being a kind of exchange for the duties which had been paid on goods imported and exported in the time of the French government.

ENGLISHMAN.

You may possibly be very right in this opinion : and I am inclined to join with you in it. But I was willing to mention every circumstance that could possibly be supposed to mislead Mr. Grenville into so wrong a measure : for as such I must ever consider it ; the other two grounds that we have mentioned, that of the right accruing to the Crown by conquest, and that of this duty's being laid in lieu of the French duties, being both of them, in my opinion, very far from sufficient to justify it.

FRENCH-

FRENCHMAN.

The latter of these reasons is evidently a very weak one. For in the first place, the French duties, for which it is insinuated this was an exchange, were already abolished (when this new duty was imposed,) by the abolition of the trade to Old France. It was therefore impossible that this new duty should be an exchange for those old ones, which no longer had any being. And, in the second place, if those French duties had continued to subsist after the peace by a permission, on the part of Great-Britain, to the inhabitants of the island of Grenada to continue to trade to Old France, yet no exchange could have been made of those old duties for any new duty without the consent of the people who were to pay it, unless it were by virtue of the same authority which would have been sufficient to lay any new tax upon them without abolishing the old ones. For every exchange implies the consent of both the parties that make it, in order to its being a real and fair exchange: and no man has a right to take from any other

a house,

Insufficiency of the third reason above mentioned, which is derived from a supposition that the new duty of $4\frac{1}{2}$ per cent. is an exchange for the old French duties.

a house, or a horse, or any other part of his property, and to give him something else in the lieu of it, without his consent, even though the thing so given in lieu of the former should be of superiour value to it. A forced exchange is therefore either an act of violence and injustice or an act of superiority and authority. And all that can be inferred from the abolition of the old French duties paid in the island of Grenada, in favour of the imposition of the new duty of four and a half per cent., is, that it would have been reasonable, and equitable, and expedient, that the said new duty should be imposed there *by some proper and adequate authority* in lieu of the said French duties that were abolished, but not that the king thereby acquired the right to impose the said new duty by virtue of his royal prerogative. The expediency of having a new tax laid on the people for any publick service will never, in any country, vest a particular magistrate with the legal right of imposing such a tax, if he had not the said right before; but will only justify the magistrates, or other persons, who are already possessed of such a legal right, in exerting it
for

for the purpose of imposing such reasonable tax. So that, in my opinion, the only ground upon which Mr. Grenville could, with any appearance of reason, justify this measure of advising the king to impose a tax on the people of Grenada by virtue of his royal prerogative only, was the right that might accrue to the Crown, to govern them according to its will and pleasure, in consequence of the conquest; which indeed seems to be the ground principally insisted on in the aforesaid letters patent, by which the said duty was imposed. How far this ground is sufficient for this purpose I do not know. But I never yet heard that the kings of Great-Britain governed those provinces in America which they had obtained by conquest, (as the province of New-York in North-America, and the island of Jamaica) in a different manner from their other provinces, which were planted by colonies from Great-Britain. I beg you would therefore inform me what the law of England is understood to be upon that subject, or what rights the crown of Great-Britain is supposed to acquire over conquered countries after the final cession of such countries to it by the former sovereigns of them.

The first reason above-mentioned, to wit, the right of conquest, is that which seems most to be relied on in the royal proclamation by which the said duty of $4\frac{1}{2}$ per cent. is established.

Of the prerogative of the crown of Great-Britain with respect to conquered countries.

P p p

E N G-

ENGLISHMAN.

This inquiry, together with the other matters that remain to be discussed on the subject of America, must be postponed to some other opportunity.

You are entering upon a curious and important subject, on which I will endeavour to give you all the satisfaction in my power; though I doubt whether I shall be able to satisfy you perfectly upon it, because it is a matter that is by no means clear and settled amongst the English lawyers themselves. But, as this inquiry will probably run into considerable length, and we have already spent so much time in this political conversation, I must beg leave to postpone the consideration of this and the other subjects I promised to touch upon with you, concerning the expediency of removing the apprehensions of the North-Americans that bishops will be established amongst them without the consent of their assemblies, and concerning the expediency of amending the constitutions of the provincial councils in the several royal governments, (which are governed only by the king's commissions, without a charter,) by increasing, to at least twice their present number, the members of such councils, and appointing them to hold

hold their seats in the said councils during their lives or good behaviour, instead of the mere pleasure of the Crown, to some other opportunity.

FRENCHMAN.

Well; I am sorry we are obliged to part, though I must needs confess it is high time to do so, as the day is so far spent. But I hope we shall soon meet again, to compleat the discussion of these subjects, which have greatly excited my curiosity. In the mean time I am very much obliged to you for the information you have this day given me. So farewell.

THE END OF THE FIRST DIALOGUE.

add their seats in the said council during
their lives or good behaviour, instead of the
new pleasure of the Crown, to some other
person.

And I am sorry we are obliged to part
with a man whose conduct it is high time to
reconsider, and who is so expensive, but I hope
I shall soon meet again, to complete the
number of these judges, which has greatly
enriched the country. In the mean time I
am much obliged to you for the infor-
mation you have this day given me. So fare-
you.

Yours truly
J. C. CHAMBERLAIN

